



WEB COPY

Arb Appln No. 1216 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1216 of 2025

M/s Cholamandalam Investment and
Finance Company Limited
Chola Crest, C 54 and 55, Super B-4,
Thiru Vi Ka Industrial Estate, Guindy,
Chennai 600 032 represented by its
Authorised Signatory

Applicant

Vs

The Proprietor Rainbow Collections
Abdullakutty
Rainbow Collections,
No.1/VP/13/400-B, Tharuvana
Junction, Tharuvana, Wayanad,
Kerala 670 645.

Respondent

PRAYER

To appoint an Advocate Commissioner to seize and deliver the vehicle to applicant which is morefully described in the Schedule to the Judges Summons which is lying in the custody of Respondent or respondent's men, agents, servants from respondent premises or wherever found with Police aid and break open of premises if necessary.

For Applicant: Mr.D.Pradeep Kumar



For Respondent: Mr.B.Dhiyaneswaran
Advocate Commissioner

WEB COPY

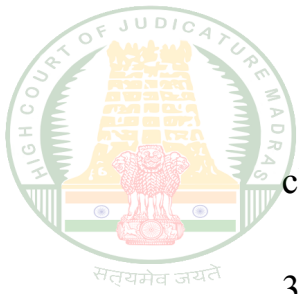
ORDER

This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 for appointment of an Advocate Commissioner for seizing the vehicle in the custody of the respondent, if necessary, with police protection and by breaking open the premises.

2. When this application came up for hearing on 26.08.2025, this Court passed the following order:-

“This application has been filed under Section 9 of the Arbitration and Conciliation Act, seeking for the appointment of an Advocate Commissioner by this Court to re-possess the vehicle from the respondent or wherever available.

2.The applicant is a Non-banking Financial Institution. They have entered into the Loan Agreement dated 22.01.2022 with the respondent. Under the said loan agreement, the respondent has availed loan from the applicant for the purchase of the vehicle, morefully described in the schedule to the judges summons. According to the applicant, the respondent has committed default in re-payment of the loan. The applicant has recalled the loan granted to the respondent through their loan recall notice dated 24.04.2025. No reply has been received to the same. The agreement dated 22.01.2022 contains an arbitration clause. The applicant has already initiated arbitration in accordance with the arbitration



clause and the arbitration is pending.

WEB COPY

3. According to them, the respondent has paid only 23 installments out of the total 60 installments payable by them. As on date, they are in arrears of 12 installments. The arrears of installments alone work out to a total sum of Rs.1,68,000/-. The applicant has also filed statement of account dated 02.08.2025 along with this application, which reveals that a sum of Rs.3,85,124.15 is due and payable by the respondent to the applicant. The applicant is empowered to repossess the vehicle from the respondent, as per the terms of the loan agreements, in case, the respondent commits default in repayment of the loans. The applicant claims that they are having difficulties in repossessing the vehicle on their own. Only under those circumstances, they have filed this application seeking for the appointment of an Advocate Commissioner to repossess the vehicle from the respondent or wherever available.

4. This Court is of the considered view that a prima facie case has been made out by the applicant for appointment of an Advocate Commissioner. Once the vehicle is repossessed by the Advocate Commissioner, to enable the respondent to use the vehicle once again, they must be put on terms for getting back the vehicle from the applicant after re-possession. In order to strike a balance, the following order is passed by this Court:

a) Mr. B. Dhiyaneswaran, Advocate, having office at No.373, New Additional Law Chambers, High Court Building, Chennai - 600 104 (Mob. No.97913 36709) is appointed as the Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges



Summons from the respondent's premises or wherever available;

WEB COPY

b)The Advocate Commissioner after re-possessing the vehicle, shall handover interim custody of the same to the applicant, who shall keep it in their safe custody;

c)The Advocate Commissioner, immediately after re-possessing the subject vehicle, shall intimate the respondent either through Registered Post with Acknowledgment Due (RPAD) or by hand delivery through a written communication that the arrears of installments works out to Rs.1,68,000/-;

d)The respondent, on payment of Rs.1,68,000/- to the applicant within a period of three days from the date when the subject vehicle was re-possessed, is entitled for return of the seized vehicle. On receipt of the sum of Rs.1,68,000/- within the stipulated time as stated supra, the applicant shall re-deliver the subject vehicle back to the respondent with proper acknowledgment and the Advocate Commissioner shall also render proper assistance for the same;

e)In case, the Advocate Commissioner requires Police assistance due to any law and order problem or due to any obstruction caused by the respondent or by any third party, while re-possessing the vehicle, the Advocate Commissioner is at liberty to seek police assistance from the concerned police station and the police department shall grant police protection accordingly. In case, break open of the premises, where the vehicle is located, is required, the Advocate Commissioner shall break open the premises in the presence of the police and take an inventory and



thereafter re-posses the vehicle;

WEB COPY

f)The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- and on receipt of the same, the advocate commissioner shall proceed to execute this order. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

Notice to the respondent returnable by 07.10.2025. Private Notice is also permitted. ”

3. The private notice that was sent to the respondent has been returned with an endorsement “left”. Hence the apprehension of the applicant that the respondent is trying to secret the vehicle is prima facie established.

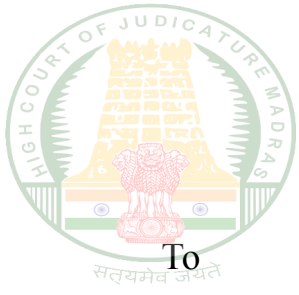
4. The learned counsel for applicant submitted that the remuneration has already been paid to the learned Advocate Commissioner.

5. In view of the above, in the place of the Advocate Commissioner, Ms.Arya, Legal Executive is appointed as Receiver for seizing the subject vehicle from the respondent or wherever it is found and by breaking open the premises, if required, with police aid.

6. This application stands disposed of in the above terms.

08-10-2025

SS



Arb Appln No. 1216 of 2025



To

WEB COPY

The Proprietor Rainbow Collections
Abdullakutty
Rainbow Collections,
No.1/VP/13/400-B, Tharuvana
Junction, Tharuvana, Wayanad,
Kerala 670 645.



WEB COPY

Arb Appln No. 1216 of 2025



**N.ANAND
VENKATESH J.**

SS

**Arb Appln No. 1216 of
2025**

08-10-2025