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Arb Appln No. 1228 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1228 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 Chief Executive Officer
Brahmagiri Development Society,
Pathiripalam Junction, Sulthan Bathery,
Wayanad, Kerala 673 591.

Respondent

PRAYER

To Appoint an Advocate Commissioner to seize and deliver the Vehicle to Applicant which is more fully 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: Ms.Rajeswari Nag
Advocate Commissioner

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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, 1996, seeking for appointment of an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons.

2. The applicant is a non-banking financial institute and they have lent money to the respondent for the purpose of purchasing a vehicle under the Loan Agreement dated 28.06.2022. The respondent has committed default in the repayment of the loan as per the terms and conditions of the loan agreement. The applicant has also recalled the loan through its notice dated 14.05.2025. As seen from the statement of account dated 02.08.2025 filed by the applicant, 16 installments are in arrears, which the respondent has not paid to the applicant. The total value of the 16 installments works to Rs.4,14,400/-.

3. Under the Loan Agreement dated 28.06.2022, the



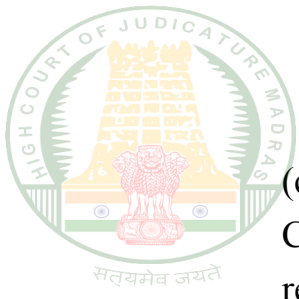
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applicant is empowered to repossess the vehicle in case the respondent commits default in the repayment of the loan. There exists an arbitration clause in the said agreement dated 28.06.2022. The applicant has already initiated arbitration in accordance with the said arbitration clause. The applicant has expressed its difficulty to repossess the vehicle on its own. Since the applicant has made out a prima-facie case for appointment of an Advocate Commissioner, this Court is inclined to appoint an Advocate Commissioner for the purpose of repossessing the vehicle from the respondent or wherever it is found. Eventhough this Court is inclined to appoint an Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons, an opportunity must be given to the respondent to take back the vehicle from the applicant once a sum of Rs.4,14,400/- is paid within a period of three days from the date of seizure of the said vehicle from the respondent.

4. For the foregoing reasons, this Court is issuing the following directions:-

(a) Ms.Rajeswari Nag, Advocate, having office at No.14/8, 1st Floor, Sunkurama Chetty Street, Parrys, Chennai 600 001, Mobile No.98410 19496, is appointed as Advocate Commissioner to repossess the vehicle morefully described in the schedule to the Judges Summons from the respondent or wherever it is available.

(b) The Advocate Commissioner is permitted to obtain the police aid whenever required and he is also permitted to break open the premises in case the vehicle is kept in a locked premises in the presence of the police after taking proper inventory.



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(c) On repossession of the subject vehicle, the Advocate Commissioner shall send a communication to the respondent intimating that a sum of Rs.4,14,400/- is due and payable towards the arrears of installment by the respondent to the applicant, in respect of the aforesaid loan agreement.

(d) On receipt of such intimation, the respondent shall pay the aforesaid amount within a period of three days from the date of receipt of a communication from the Advocate Commissioner and on payment of such sum, the applicant shall handover the vehicle back to the respondent and the Advocate Commissioner shall cooperate with the applicant for the same.

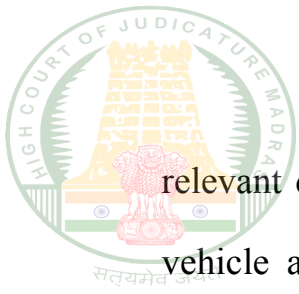
(e) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- by the applicant within a period of one week from the date of receipt of a copy of this order. All the boarding and lodging expenses shall be borne by the applicant.

5. Notice to the respondent, returnable by 07.10.2025. Private notice is also permitted.

6. Post the matter on 07.10.2025.”

3. Notice has been served on the respondent and affidavit of service has also been filed. Even though notice has been served on the respondent, there is no appearance either in person or through counsel.

4. The learned Advocate Commissioner has filed a report along with the



relevant documents. It is seen that the Advocate Commissioner has seized the vehicle at Kerala and handed over the same to the official of the applicant company. The learned Advocate Commissioner has also sought for additional remuneration.

5. The learned counsel for applicant submitted that after the vehicle was seized, the respondent made payments and therefore the vehicle was also released.

6. In the light of the above developments, no further orders are required to be passed in this application. There shall be a direction to the applicant to pay a sum of Rs.20,000/- towards additional remuneration to the learned Advocate Commissioner.

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

08-10-2025

SS

To

The Chief Executive Officer
Brahmagiri Development Society,
Pathiripalam Junction, Sulthan Bathery,
Wayanad, Kerala 673 591.



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**N.ANAND
VENKATESH J.**

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