



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No. 1244 of 2025

1. Cholamandalam Investment
And Finance Co Ltd
Chola Crest, C 54 and 55, Super
B-4, Thiru Vi Ka Industrial
Estate, Guindy, Chennai

Applicant(s)

Vs

1. M/s Bency Raphael Managing
Partner Friends Trans Logistics
Kanathezath House, Payyoor
P.O.Koonamoochi Church,
Konamoochi Thrissur,
Kerala 680 504.

Respondent(s)

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 respondents men, agents, servants from respondent premises or wherever found with police aid and break open of premises if necessary.



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For Applicant(s): Mr.D.Pradeep Kumar
For Respondent: -

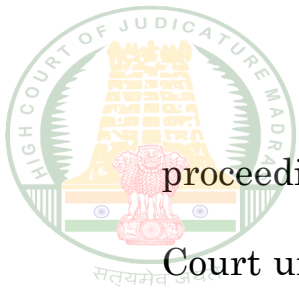
ORDER

This application has been filed to appoint an Advocate Commissioner to seize and deliver the vehicle to the applicant which is lying in the custody of the respondent or their men or agent, servant etc., with police aid and to break open the premises, if necessary.

2. Heard the learned counsel for the applicant and carefully perused the materials available on record.

3. In the instant case, nine instalments remain unpaid and the applicant has already initiated arbitration proceedings and it is pending. During the pendency of the proceedings, the present application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for brevity hereinafter referred to as the “Act”).

4. In the considered view of this Court, once the arbitration



proceedings has been initiated, whatever powers are available to the Court under Section 9 of the Act is available to the Arbitral Tribunal under Section 17 of the Act. Useful reference can be made to the judgement of this Court in ***[M/s.Cholamandalam Investment and Finance company Ltd. Vs.Harkhabhai Amarshibhai Vaghadiya] in Arb. Appln. No.40 etc., of 2022*** wherein this Court has made it clear that the remedy that has been sought for under Section 9 of the Act is certainly available under Section 17 of the Act also.

5. In view of the above, liberty is granted to the applicant to approach the Arbitral Tribunal to file an application under Section 17 of the Act and work out their remedy

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

01-09-2025

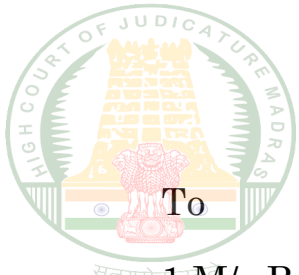
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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

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N.ANAND VENKATESH J.
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