

TNNS020003712025



Presented on : 08-12-2025

Registered on : 19-02-2026

IN THE COURT OF THE SUB JUDGE AT UDHAGAMANDALAM

Present : Mrs.G.Bharathi Prabha., B.A., B.L.,

Sub Judge, Udhagamandalam.

(J.O.Code: TN01448)

Friday the 10th day of July, 2026

E.P.No.6/2026

in

A.C.No.182/2016

M/s.Cholamandalam Investment and Finance

Co.Ltd. Represented by its Authorised

Signatory "Dare House" No.2,

N.S.C. Bose Road, Parry's, Chennai,

Represented by their Authorized Power of

Attorney Agent Mr.John Basco, S/o.Francis

... Petitioner/Claimant.

/Vs/

1. S.Hussain

2. A.Sardar

... Respondents/Respondents.

This petition is coming on 06.07.2026 for final hearing before this Court, in the presence of Mr.A.Mahesh, B.A(Law)., LL.B., Advocate for the Petitioner/Claimant and Mr.D.Jose, B.Sc., B.L., Advocate for the Respondents/Respondents and upon hearing both side arguments, and all connected material records and having stood over till this day, for consideration, this court delivered the following:-

ORDER

The Petitioner/Claimant Holder prays to recovery a sum of Rs.7,16,579/- by arrest and imprisonment of the respondents under Section 51C 1 of CPC and under Order 21 Rule 37 of Civil Procedure Code.

2. GIST OF THE AFFIDAVIT BY THE PETITIONER:

The petitioner filed the E.P. against the respondents for the recovery of money. The respondents are the men of means and they have got movable and immovable properties worth lakhs of rupees. The respondents are doing business/agriculture and their income will not be less than Rs.3,00,000/- per year. The respondents have got ready cash with them to satisfy the decree amount but they are purposely evading to pay the decree amount to the petitioner. If arrest is ordered the decree amount will be realized forthwith. Hence, this court Orders arrest and detention of the respondents in Civil Prison, they will not pay the amount to the petitioner.

3. GIST OF THE COUNTER STATEMENT BY THE RESPONDENT NO.2 AND ADOPTED BY RESPONDENT NO.1:

The petition is false, frivolous, vexatious and not maintainable either on in law or on the facts of the case. At the time of issuing vehicle loan the petitioner company has promised that the interest rate of the loan is very less. But the company claimed very high interest and the company failed to credit some of the payments made by the respondents and not properly maintained the accounts. The petitioner company claimed very high amount by miscalculating the accounts. Though the respondents was ready to pay the loan amount on installments the petitioner company not inclined to accept the same and seized the vehicle and sold it on very high value. The petitioner company is not entitled to claim any amount from the respondents. The respondents are entitled for the benefit of debt relief act and they are the person of no means. Hence, this petition is dismissed.

4. The Point for consideration is whether the petitioner is entitled to the relief as prayed for ?

5. The admitted case of the parties is that, the petitioner obtained a award against the respondents in the above suit on 22.05.2018 and the

Respondents had not satisfied the said award amount till date and the respondents are having sufficient means to repay the loan amount.

6. The petitioner contended that, the Respondents got ready cash with them to satisfy the award amount. They are the man of means and they have got moveable and immovable properties worth lakh of rupees but they are purposely evading to pay the award amount to the petitioner. The respondents are doing business/agriculture and their income will not be less than Rs.3,00,000/- per year. The respondents filed the counter statement refusing the contention of means alleged by the petitioner and claimed themselves as man of no means.

7. Since, the Respondents claimed themselves as men of no means and the petition is filed to curtail his personal liberty in order to realize the decretal debt by detaining them in Civil Prison, the petitioner is under obligation to establish the means of the respondents. To prove the means of the respondents, the petitioner examined himself as PW-1 and deposed that, the Respondents got ready cash with him to satisfy the award amount. They are the men of means and they have got moveable and immovable properties worth lakh of rupees but is purposely evading to pay the award amount to the petitioner. But, had not produced any documentary evidence to substantiate the above contention. The petitioner in his cross examination had admitted that, he failed to state what type of income, the respondents are receiving or what type of property they own. But he has denied that the respondents have no means. The respondents have failed to let out any evidence on their part.

8. The respondents had not set forth any defence to show that, they have no means. Since, the respondents had not denied the existence of award passed against them and had not stated that, the said award is under challenge, cannot escape from the liability to discharge the decretal debt in

spite of having means to repay the same. Therefore, this court comes to the conclusion that, the petitioner has established that, the respondents are having sufficient means to repay the decretal debt, but, avoiding to repay the same without any valid reasons, hence, this court is of the view that, the petitioner is entitled to the relief as prayed for. The Point is answered accordingly.

9. In the result,

Arrest by 10.08.2026. Batta in a Week.

Dictated to Steno Typist, typed by him directly in computer, corrected and pronounced by me in open court, on this the 10th day of July, 2026.

**Sub Judge,
Udhagamandalam.**

I. Petitioner's Side Witnesses:

PW- 1 Mr. John Basco

II. Petitioner's Side Exhibits: Nil

III. Respondent side Witness and Exhibits:

- Nil-

**Sub Judge,
Udhagamandalam.**