

OCD-11

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA  
COMMERCIAL DIVISION  
ORIGINAL SIDE

AP-COM/12/2026

CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED  
VS  
CHHAYRAF JAMADAR AND ANR.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 14<sup>th</sup> January, 2026.

Appearance

Mrs. Shrayashee Das, Adv.  
Mr. Tridibesh Dasgupta, Adv.  
Ms. Anukriti Ararwal, Adv.  
...for petitioner

The Court:- Affidavit of service is taken on record.

None appears for the respondents.

The petitioner has preferred the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 seeking appointment of a receiver for taking possession of the vehicle bearing no. GP4825 Cowl Chassis, bearing Registration No. WB-33-E-9332 and Model No. GP4825, pending resolution of the disputes between the parties.

It is a case of the petitioner that a credit facility of Rs. 28,73,903/- was extended to the respondent by way of loan agreement dated 30<sup>th</sup> March, 2025, repayable in 58 equated monthly instalments, commencing from 5<sup>th</sup> May, 2025 and ending on 5<sup>th</sup> February, 2030.

The respondent committed default commencing from the 3<sup>rd</sup> instalment itself. Consequently the petitioner by a letter dated 17.12.2025 terminated the loan agreement and called upon the respondents to make payment of an aggregate sum of Rs.31,44,318.93/-. Despite such termination and demand the respondent has failed and neglected to liquidate the outstanding dues, thereby necessitating the filing of the present petition seeking interim protection by way of appointment of a receiver.

Learned counsel for the petitioner submits that in terms of Clause 29 (C) of the loan agreement, the seat and venue of the arbitration are to be as specified in the schedule. A perusal of the schedule attached to the petitioner reveals that the seat and venue of arbitral proceedings shall be at Kolkata.

Accordingly, this Court has requisite territorial jurisdiction to entertain and adjudicate the present petition.

Upon consideration of the pleadings and the materials placed on record, it prima facie appears that the respondent has committed defaults in repayment of the loan instalments, resulting in lawful termination of the agreement.

The petitioner, being a secured creditor, has a subsisting contractual and proprietary interest in the hypothecated asset. The balance of convenience clearly tilts in favour of the petitioner.

If necessary protection is not granted, there exists a real and imminent possibility of the assets being concealed, alienated and/or

otherwise dealt with by the respondent thereby frustrating the petitioner's claim and rendering the arbitral proceedings infructuous.

The petitioner would also suffer irreparable loss and injury in the event the interim protection is denied as the vehicle constitute the primary security of the loan transaction, and its continued possession by a defaulting borrower would prejudice the petitioner's right, which cannot be adequately compensated by monetary damages at a later stage.

In view of the aforesaid facts and circumstances and having regard to the existence of the prima facie case, the balance of convenience and the likelihood of irreparable injury, this Court is of the considered view that the petitioner has made out a strong prima facie case for grant of interim relief under Section 9 of the Arbitration and Conciliation Act, 1996.

Accordingly, in view of the aforesaid, Mr. Raja Ghosh (Mob. No. 9830867279) is appointed as the receiver for the purpose of taking possession of the asset being no. GP4825 Cowl Chassis, bearing Registration No. WB-33-E-9332 and Model No. GP4825.

The receiver shall be entitled to a remuneration of Rs. 35,000/- in addition to actual expenses incurred which shall be borne by the petitioner.

The petitioner is directed to depute a competent and authorised representative to assist the receiver in locating, identifying and taking possessing of the said vehicle.

The Officer-in-Charge of the concerned Police station is directed to render all necessary assistance to the receiver as and when required for effective implementation of this order.

List the matter after four weeks for filling and considering of the receiver's report.

The petitioner is directed to take all immediate steps for constitution of the arbitral tribunal in accordance with law and to place the same on record on the next date of hearing.

(GAURANG KANTH, J.)

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