

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/112/2026

CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED
VS
BIPAL AGARWAL AND ANR.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 23rd February, 2026.

Appearance:

Ms. Shrayashee Das, Adv.

Mr. Tridibesh Dasgupta, Adv.

Ms. Anukriti Agarwal, Adv.

...for the 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 Registration no.WB-73-G-4355 Model PRO 2095 XP H CBC WB 4420 MM 19FT pending resolution of the dispute between the parties.

It is the case of the petitioner that a credit facility of Rs. 18,00,000/- was extended to the respondent by way of loan agreement dated 10th September, 2022, repayable in 59 equated monthly installments, commencing from 10th October, 2022 and ending on 10th August, 2027.

The respondents committed default commencing from the 21st instalment. Consequently, the petitioner by a letter dated 24.12.2025

terminated the loan agreement and called upon the respondents to make payment of an aggregate sum of Rs.10,77,040.74/-. Despite such termination and demand, the respondent has failed and neglected to liquidate the outstanding dues, thereby compelling the petitioner to file 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 of the loan agreement, the disputes between the parties are referable to arbitration, the seat of arbitration proceedings shall be at Chennai or such other place/location/city which the company as its discretion may decide from time to time. The Petitioner has exercised such discretion and chosen Kolkata as the place of arbitration.

It is further submitted that the loan agreement was executed at Kolkata, the Respondents reside within the State of West Bengal, and the vehicle sought to be taken possession of is registered within the state of West Bengal. Accordingly, this Court has the 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 respondents have committed defaults in repayment of the loan installments, resulting in lawful termination of the agreement.

The petitioner, being a secured creditor, has a subsisting contractual as well as 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 asset being concealed, alienated and/or otherwise dealt with by the respondents 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 constitutes 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, Ms. Anita Kundu (Podder) (Mob. No. 9432428333) is appointed as the Receiver for the purpose of taking possession of the asset bearing Registration no. WB-73-G-4355 Model PRO 2095 XP H CBC WB 4420 MM 19FT.

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 possession 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.

The receiver shall file a report before this Court on the next date of hearing.

List the matter after four weeks for filing 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.)