

ARBTN No.36/2026

SHRIRAM FINANCE LIMITED VS. SH. KANHAIYA PRASAD

16.03.2026

Present: Sh. Manoj Kumar, ld. counsel for petitioner (VC).

Record perused. Considered.

1. This is a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 along with an application for grant of *ad-interim ex-parte* order for appointment of receiver to take possession of the subject vehicle make “MARUTI WAGON R” from the respondent, her agents or any person found to be in possession of the same.

2. In brief, the case of the petitioner is that after availing the loan/finance amount of Rs.1,26,545/-, respondent purchased the subject vehicle out of the aforesaid amount so disbursed under the Loan-cum-Hypothecation agreement dated 30.08.2023. The loan amount was to be repayable in 24 EMIs of Rs.5,274/- each. As per the terms of the loan agreement, respondent hypothecated the said vehicle in favour of the petitioner as a security for the repayment of the loan amount. However, the respondent failed to adhere to the financial discipline of repayment of the loan and defaulted in payment of the EMI's. Accordingly, the petitioner has recalled the loan vide **loan recall notice dated 16.12.2025**, thereby terminating the loan agreement and intimating that as on 11.12.2025, **a sum of Rs.81,828/-** is due and payable under the said agreement. Under the loan agreement, in case of defaults, the petitioner is entitled to repossess the aforesaid vehicle which is hypothecated to the

petitioner.

3. The petitioner has strong apprehension that the respondent may dispose of the said vehicle which is the only security with the petitioner. Thus, it is prayed that a receiver may be appointed to repossess the said vehicle.

4. In view of the totality of the facts & circumstances and the fact that the respondent is defaulter to the tune of Rs.81,828/- and the apprehension of the petitioner that the subject vehicle may be disposed of by the respondent during pendency of the dispute seems to be probable.

5. Ld. Counsel for petitioner has prayed that delay in grant of interim relief may defeat the very object of filing the instant petition under disposal. Accordingly, I am satisfied that the petitioner has made out a *prima-facie* case for grant of relief, as prayed for. Accordingly, the following directions are being passed:-

i. Mr. Suraj Joshi, representative of petitioner company is appointed as a receiver in this case to take into his custody the vehicle **“MARUTI WAGON R” bearing registration no.UP-16-FT-4277** from the respondent, his agents or any other person found possessing the vehicle.

ii. The receiver shall take over the possession of the vehicle from the respondent at the address(es) given in the loan application. If the vehicle is not available at the said address(es), the receiver shall be at liberty to recover the vehicle wherever found. However, the receiver shall not stop a running vehicle on the road to forcibly take out the driver to take the possession of the vehicle. The receiver shall also not make any attempt to block the passage of a

car.

iii. The receiver shall avoid taking the possession of the vehicle if the vehicle is occupied by a woman who is not accompanied by a male member or an elderly infirm physically/mentally challenged person. In such cases, the receiver shall take the possession of the vehicle from the borrower's residence.

iv. The receiver shall be at liberty to take the assistance of the local police, if required, for taking over possession of the vehicle. The concerned SHO shall provide assistance to the receiver as and when requested.

v. At the time of taking the custody of the vehicle, the receiver shall deliver a copy of this order to the person from whom the possession is taken.

vi. At the time of taking the custody of the vehicle, the receiver shall take the photographs of the vehicle from different angles and prepare the inventory of the articles lying in the vehicle.

vii. After taking the vehicle in possession, the receiver shall keep the vehicle in safe custody and shall not dispose of/sell the vehicle without the permission of the arbitrator. Needless to say that if, respondent makes payment, the vehicle shall be released to the respondent.

viii. The receiver shall submit his report before this court within 10 days of taking the custody of the vehicle along with the photographs and inventory mentioned above.

ix. In case the respondent clears all the pending installments upto date then the vehicle shall not be repossessed.

x. The petitioner shall refer the dispute to arbitration in terms of loan agreement if not already referred for

appointment an arbitrator within four weeks from today and inform the court in writing about the same on the next day.

xi. This order shall remain valid for three months from today.

xii. The receiver shall handover a copy of this order to the respondent or to the person in whose possession the vehicle is found, before repossessing the vehicle.

xiii. Petitioner is directed to initiate arbitration proceedings against respondent within 15 days from today in term of Section 9(2) of the Arbitration & Conciliation (Amendment) Ordinance 2015. In case of failure, the aforesaid order shall be deemed to be vacated.

The petition stands disposed off, as elaborated above.

It is not out of place to mention that the guidelines mentioned in the judgment in the case of **M/s. Kotak Mahindra Prime Ltd. Vs. Kamal Chauhan having OMP (I) No. 540/15, decided on 23.12.2015, passed by HMJ J. R. Midha** be complied with and are applicable to the petition, petitioner and Receiver.

File be consigned to Record Room.

Copy of this order be given *Dasti*.

Announced in the open court
on this 16th day of March, 2026.

(Dharmender Singh)
District Judge-01(West),
Tis Hazari Courts, Delhi