4 OMP (I) (COMM.) 798/25
Axis Bank Ltd Vs. SAHUN 0654

23.01.2025
Present: Sh. Mayank Mahajan counsel for petitioner. (through VC.

Fresh petition u/s 9 of Arbitration and Conciliation Act has been received. It be checked and registered.

1) Vide this order I shall dispose of petition u/s 9 of Arbitration and Conciliation Act, 1996 for appointment of receiver to take possession of the vehicle I.e.**"Maruti Baleno Sigma, bearing registration No. HR96A2030".**

2) I have heard and perused the petition.

3) Petitioner bank seeks appointment of receiver to take possession of vehicle/make/model i.e. **"Maruti Baleno Sigma, bearing registration No. HR96A2030"** from respondent which was subject of loan advanced to respondent vide loan agreement and hypohecated with petitioner. Agreement entitled the petitioner to repossess vehicle in the event of default in repayment of loan.

4) There appears legitimate apprehensions on the part of petitioner that in the event of notice being issued to respondent, he may proceed to dispose of vehicle in question to defeat the suit claim.

5) Reliance in this regard is placed on *Citi Bank N.A Vs. Sudesh Kumar, FAO(OS) No.117/2002* and *FAO(COMM*

where an exparte order was granted appointing receiver for seizure of vehicle pursuant to a loan scheme between appellant and respondent wherein respondent had agreed to make payment due pursuant to agreement between parties with payments to be made in installments, which were not so paid.

6) The observations made in ***Citi Bank Vs. Bhupinder Singh,*** FAO No.198/2006, wherein it was observed that apprehension on the part of appellant that in event of notice being issued to respondent that he may proceed to dispose of vehicle in question to defeat suit claim, could not be taken to be unfounded and it was held that there were sufficient grounds for passing ex parte order for appointment of receiver. The legal representative of the company in that case was thus appointed as Local Commissioner to take over possession of vehicle from respondent or anyone found in possession thereof and to keep same in his safe custody and not to dispose of same without order of Court and receiver was also authorized to seek necessary police assistance from local police.

7) The Hon'ble Delhi High Court in ***ICICI Bank Limited v. Kaptan Singh;*** II (2007) BC 586 and ***ICICI Bank Limited vs. Jal Singh,*** FAO 271/2017 allowed the similar prayer made by petitioner thereof for appointment of an ex parte receiver in view of non-payment of EMI dues towards loan agreement.

8) There has been a default in payment of **14 EMIs** by respondent on the date of filing of petition . Further, Respondent has failed to pay amount due towards Equated monthly installments despite service of legal notice dated **27.11.2024** upon him. Apprehension of petitioner is that vehicle in possession of respondent may be misappropriated or sold off if notice is served upon him cannot be held to be merely imaginary.

9) Thus, **Mr. Shyam Singh Chauhan**, representative of petitioner bank, as prayed in application, is appointed as a receiver to take over possession of vehicle, i.e **"Maruti Baleno Sigma, bearing registration No. HR96A2030"** from respondent. It is directed that,

> *1. Receiver, while taking possession of the subject vehicle will ensure that due courtesies are extended to respondent.*
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> *2. Receiver shall take over possession of vehicle from respondents at address (es) given in loan application. If vehicle is not available at said address (es), receiver shall be at liberty to recover vehicle from wherever found. However, receiver shall not stop a running vehicle on road to forcibly take out the driver to take possession of vehicle. Receiver shall also not make any attempt to block passage of a*

vehicle to bring it to a halt to take its possession.

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

4. Receiver shall also ensure that repossession of vehicle does not result in any breach of peace. In event of any breach of peace by person occupying the vehicle, receiver shall not proceed without assistance of police.

5. In case police assistance is required, receiver will approach Station House Officer manning nearest police station, who, in such an eventuality, shall render due assistance to enable compliance in the matter.

6. Receiver will also keep in mind time and place where subject vehicle is taken possession of. If, at the time of taking possession, respondents were to pay sums, which are due and payable then, the receiver, will issue a receipt to

respondent and release vehicle on superdari to him subject to an undertaking by respondent to receiver for regular repayment of future monthly installments till expiry of tenure and a declaration not to part with vehicle or create third party interest in vehicle until entire amount is paid.

7. At the time of taking possession of said vehicle, photographs of said vehicles from all angles (including inside) be taken. He shall also take photograph of speedometer clearly displaying the kilometers covered by the said vehicle.

8. Receiver shall prepare an inventory of articles/accessories found in vehicle and shall furnish a copy of inventory to person from whom possession of vehicle is taken.

9. He shall also get survey of said vehicle done from a Government approved surveyor regarding its condition and value within 24 hours of taking possession.

10. In case receiver is successful in obtaining possession of subject vehicle before next date of hearing, he shall

inform the court forthwith and submit his report within 03 days of taking possession of vehicle. Further in case vehicle is not traced, even then he shall submit his report before next date.

11. He shall keep the vehicle in safe custody and vehicle shall not sell or dispose it off without permission of the court.

10) The petition is disposed off in above terms. Order shall effective for a period of three months only from date of order. Report be filed within 10 days of taking possession of vehicle i.e. **"Maruti Baleno Sigma, bearing registration No. HR96A2030".** File be consigned to Record Room.

(Anuradha Shukla Bhardwaj)
District Judge
(Commercial Court-02)
South Distt., Saket, New Delhi/23.01.2025

anuradha shukla

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