

OMP (I) (COMM.) 620/26

KOTAK MAHINDRA BANK LTD V RAKESH NANAJI BORSE

19.03.2026

Present: Mr. Amit Kumar, Advocate for petitioner

This is a petition under section 9 of the Arbitration and Conciliation Act made on behalf of the Kotak Mahindra for appointment of receiver for purpose of taking the vehicle namely **CB_EXCAVATOR_320D3GS** having **Registration no. NA** into possession. Heard. Record perused.

It is submitted by counsel for the petitioner that respondent(s) availed a loan for purchasing aforesaid vehicle make **CB_EXCAVATOR_320D3GS** having Registration no. **NA** vide loan cum hypothecation agreement no. **CE1187033**. Petitioner acceded to the request of the respondent(s) and granted loan of **54,00,000/-** to the respondent(s) and respondent(s) agreed to pay the total loan amount in **47 monthly installments of Rs. 1,36,350/- each**. The respondent(s) however failed/avoided to make the payments, as per the loan schedule and defaulted in repayment and a recall of the loan facility **notice dated 26.02.2026** was issued to the respondent(s). The respondent(s) failed to respond to the notice and this petition was filed. There was an arbitration clause in the loan facility agreement and since the respondent had failed to comply with the terms and conditions of the loan, the present petition has been filed seeking interim relief for appointment of receiver to take custody of vehicle.

Since respondent(s) did not adhere to the terms of the loan agreement and defaulted in making the payment therefore in my

view prima facie case is made out in favour of petitioner and further balance of convenience also lies in favour of the petitioner and in my view if the said vehicle is disposed off by the respondent(s), then petitioner will not be able to recover the loan amount. Any delay or postponing the grant of interim protection to the petitioner is likely to defeat the object of filling the present petition. It would be thus just and convenient to appoint a Receiver in the matter to take possession of the vehicle.

I have seen the relevant including agreement containing Arbitration Clause No. 11.16, hence, I appoint **Sh. Dharmendra Khedkar** whose name(s) have been given by the petitioner as Receiver to take the custody of vehicle make **CB_EXCAVATOR_320D3GS** having **Registration no. NA, Engine No. NLHM103654** and **Chasis No.110844** wheresoever and in whomsoever possession it is found subject to the following conditions:-

- (a) the receiver shall give notice to the respondent immediately prior and after taking the vehicle into his custody;
- (b) further in case respondent(s) pay to the petitioner all the outstanding EMI to the receiver which accrued till date he/she shall not take possession of the vehicle ;
- (c) at the time of taking the vehicle in custody, the receiver shall take the photographs of the vehicle from different angles and prepare an inventory of the articles/accessories found in the vehicle and obtain the signatures of the person from whose possession the vehicle is taken on the said inventory. He/shall also supply a counter signed copy of the inventory to the said person;

(d) the receiver shall hand over the custody of the vehicle to the AR/any

other responsible official of the petitioner immediately after taking possession of the vehicle after obtaining from him/her an indemnity bond that he/she shall not sell, dispose off or create third party interest in the vehicle in question without order of the arbitrator and shall keep the same in safe custody;

(e) that AR official to whom the custody of the vehicle is given by the receiver shall not sell or create any third party interest to the vehicle till further orders by arbitrator.

In case vehicle is required to be seized, it must be seized in the presence of receiver. The petitioner is directed to take steps for invoking the arbitration clause as early as possible but not later than 90 days from today.

The police of concerned Police Station is directed to provide the police aid to the receiver for execution of the order dated **19.03.2026**.

Compliance report be filed on or before **01.08.2026**.

Copy of the order be given dasti.

(Sh. Shailender Malik)
District Judge,(Commercial Court)-02
North District, Rohini Courts, Delhi
19.03.2026

