10 OMP (I) (COMM.) 3447/25
AXIS BANK Vs. GAURAV KUMAR RATHAUR

11.07.2025

Present: Counsel for petitioner, Ms. Shobha Gupta, Ms. Akshita Mishra and Ms. Simranjeet Kaur.

Report on ordinary process not received back. Report on speed post received back with report “refused”. Refusal is deemed service upon respondent. Respondent has also been served through whatsapp. None has appeared on behalf of respondent, nor any objection/reply filed.

Arguments addressed on the application filed U/s 9 of the Arbitration and Conciliation Act, 1996 for appointment of receiver for the hypothecated vehicle. Perused the record.

Ld. Counsel for petitioner has prayed for order for appointment of receiver for taking possession of the hypothecated vehicle. The application for appointment of receiver has been filed to seize the vehicle, namely, “**HYUNDAI**” bearing Registration no. **UK04AF3197** which was hypothecated with the petitioner in pursuance of the Loan Agreement no. **UCR017609775381** dated **29.09.2023.** It is submitted that, till date, the respondent has defaulted in payment of **10** installments and is liable to pay a sum of **Rs. 9,45,382/-** as on date of filing of the petition. The petitioner submits that if the respondent succeeds in disposing the vehicle directly or indirectly, the petitioner shall suffer irreparable loss and injury, and the recovery of the decretal amount and the costs may become impossible. It is further submitted that the respondent has violated the terms and conditions of the agreement and the

savita rao Digitally signed by savita rao Date: 2025.07.11 15:41:43 +0530 representative of the petitioner be appointed as receiver to seize the aforesaid vehicle.

In view of these facts and circumstances, it is considered as expedient that a receiver is appointed in this case, for seizing the vehicle **"HYUNDAI"** bearing Registration no. **UK04AF3197.** Accordingly, Sh. Gaurav Rawat, representative of the petitioner bank, is appointed as receiver who is authorized to take over the possession of the **"HYUNDAI"** bearing Registration no. **UK04AF3197.**

The receiver shall take over the possession of the vehicle, from the respondent, at the address given in the loan application. If the vehicle is not available at the said address, 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 the vehicle, to bring it to a halt to take its possession. The receiver shall avoid the taking of the possession of the vehicle , if the vehicle is occupied by a woman, who is not accompanied by a male member, or in case, she is accompanied by an elderly, infirm or physically/mentally challenged person. In such a case, the receiver shall take the possession of the vehicle, from the borrower's residence. The receiver shall also ensure that the repossession of the vehicle, will not result in the breach of the peace and in the event of any breach of peace by the person occupying the vehicle, the receiver shall not proceed further, without the assistance of the police. 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. The receiver is directed to prepare the detailed description of the general condition of the vehicle in question, alongwith the photographs of the same. The receiver may take police assistance, if required. The SHO of the local area will provide the assistance to the receiver, if so required. Receiver shall hand over the vehicle, to the petitioner, on superdari and, the petitioner shall, in all circumstances, keep the vehicle in question in proper condition and shall not dispose of or, use the same, in any manner, without the prior permission of the court/Ld. Arbitrator. Receiver is, accordingly, directed to prepare a detailed report, together with photographs of the vehicle & valuation of the vehicle, at the time of repossession, by an independent valuer. The cost of the valuation shall be borne by the petitioner. It is stated by the Ld. counsel for the petitioner that arbitration proceedings are likely to be initiated soon. Arbitral proceedings shall be initiated by petitioner within 30 days. **It is made clear to the petitioner that the appointment of arbitrator shall not be unilateral and shall be strictly following the provisions of Arbitration and Conciliation Act, failing which the order for seizure of vehicle shall be deemed to be vacated. The receiver shall make efforts for settlement and if the respondent is ready to settle, the vehicle shall not be seized. It is also directed that the receiver shall explain the contents of this order as well as proceedings to the respondent in vernacular language and shall also record the statement of respondent in vernacular (or the language in which the respondent is conversant) regarding handing over of the said**

vehicle/ non settlement/inability to pay the outstanding EMIs at the time of repossession.

It is stated by Ld. counsel for the petitioner that arbitral proceedings are likely to be initiated very soon and in any case shall be initiated as per the time frame given by this Court. Respondent shall be at liberty to take the objections, if any, in the arbitration proceedings. In view of the above facts and circumstances, nothing survives in the present petition, accordingly, the present petition stands disposed off. File be consigned to record room. Copy of this order be given dasti, as requested.

(Savita Rao)
District Judge (Commercial Court)-01
(South)/Saket Courts,
New Delhi/11.07.2025