

Misc. Appeal No.44 of 2025
Present: Biswarup Bandyopadhyay (WB01133), Chief Judge
Order No. 4 dated 24.09.2025:

The affidavit of service with reference to service on the respondents has already been placed on record. In response to the notice, the opposite party no.1 Todi Investors (India) Pvt. Ltd. has entered appearance through its Ld. Counsel.

It appears that the respondent no(s).2 and 3 are the sole arbitrator and the receiver respectively and accordingly they need not to be served. In fact their names should be expunged as their presence in this matter is not required.

Both the Ld. Counsels appearing for the appellant as well as the respondent no.1 are present. On behalf of the respondent no.1 one application is filed seeking adjournment on the grounds as stated therein specially on the grounds to file written objection in this matter.

The Appeal is taken up for hearing on its admissibility point.

Perused the Memo of Appeal and copy of order dated 08.09.2025 passed by the Ld. Arbitrator in Arbitration No.PK-20. Also perused the other materials-on-record, including the Office Report.

It is apparent that the instant appeal has been preferred within the prescribed period of limitation and accordingly, I find no legal impediment to admit the appeal.

In the circumstances, the appeal stands admitted.

Call for the L.C.R.

Now, the Ld. Counsel appearing for the appellant moves the stay application seeking an interim relief showing grave urgency. It is the submission of the Ld. Counsel appearing for the appellant that the instant application under Section 37 of the Arbitration and Conciliation Act, 1996 has been filed by the appellant challenging the impugned order dated 08.09.2025 passed by the Ld. Sole Arbitrator thereby appointing receiver/custodian in respect of the vehicle being Toyota Etios bearing registration no.WB-04G 3780 bearing Engine No.1ND1410871 and bearing Chassis No.MBJB49BT000103114. It is further submission of the Ld. Counsel that the Ld. Arbitrator while exercising his jurisdiction under Section 17 of the Arbitration and Conciliation Act has actually granted the final relief leaving nothing to be decided in the arbitral proceeding. Ld. Counsel further submits that the appellant has already paid the entire dues though the claim of the respondent no.1 as per their statement of claim, the appellant has defaulted in making payment of Rs.1,27,514/-.

Misc. Appeal No.44 of 2025

Contd. ..order No. 4 dated 24.09.2025:

Per contra the Ld. Counsel appearing for the respondent no.1 submits that the application for an interim stay of the impugned order should be rejected in view of the fact that the appellant is a defaulter and no payment has been made in compliance with the interim order passed by the Ld. Arbitrator. It is further submission of the Ld. Counsel that if this Court considers to pass any interim order of stay it should be conditional directing the appellant to make payment of a lump sum amount towards the defaulted amount.

In response thereto it is the submission of the Ld. Counsel for the appellant that as per the accounts available with the appellant, there is no dues.

It is not disputed that by order dated 08.09.2025 the Ld. Sole Arbitrator was pleased to appoint receiver/custodian in respect of the vehicle being Toyota Etios bearing registration no. WB-04G 3780 bearing Engine No.1ND1410871 and bearing Chassis No.MBJB49BT000103114, by virtue of which the receiver/custodian has been directed to take possession of the said vehicle and upon taking possession he shall make inventory in respect of the said vehicle. It further appears that as per assessment of the Ld. Arbitrator the market value of the said vehicle is approximately Rs.1,50,000/- and as per the claim statement of respondent no.1 the appellant herein has defaulted in making payment of Rs.1,27,514/- and accordingly a money award of Rs.1,27,514/- was sought for along with other consequential relief for declaration of ownership with regard to the vehicle in question, possession of the said vehicle and in lieu of such possession an award of further sum of Rs.1,50,000/-.

Having considered such facts and circumstances, specially the market value of the vehicle and defaulted amount and other relief sought for by the respondent no.1 in the arbitral proceeding, I am of the considered view that the appellant has made out a prima facie case to avail an interim order of stay till the next date.

In case the interim stay is refused, the vehicle may be possessed by the Receiver leading to such a situation where the relief sought for by the appellant in this matter will become infructuous and there will be multiplicity of the proceeding between the parties. Therefore balance of convenience and inconvenience favours the case of the appellant at this stage.

The circumstances cited by the appellant is also suggest that the appellant will suffer irreparable loss and injury if an interim protection is not granted. Accordingly, the prayer for interim stay stands allowed giving opportunity to the

Misc. Appeal No.44 of 2025
Contd. ..order No. 4 dated 24.09.2025:

respondent no.1 to file written objection by the next date for hearing of stay petition.

Hence, it is

Ordered

that the interim Award dated 08.09.2025 passed by the Ld. Arbitrator is hereby stayed till the next date of hearing.

The Receiver/Custodian is hereby restrained from taking possession of the vehicle being Toyota Etios bearing Registration no. WB-04G 3780 bearing Engine No.1ND1410871 and bearing Chassis No.MBJB49BT000103114 or taking any action in terms of the impugned interim Award dated 08.09.2025.

Fix 31.10.2025 for hearing of the stay application, objection, if any, in the meantime.

Let a copy of this order be supplied to both parties for information

Let a copy of this order be sent to the Arbitral Tribunal for information of the Ld. Arbitrator and the Ld. Receiver

Dictated & corrected by me:

Chief Judge

Chief Judge
City Civil Court, Calcutta.