OMP (I) (COMM.) 491/25
AXIS BANK LTD Vs. SADHU SHARAN TRIPATHI

24.05.2025

Present - Mr. Dheeraj Kumar, Counsel for petitioner through VC.

Heard.

1. This is a petition filed U/s 9 of the Arbitration and Conciliation Act, 1996 along with an application for grant of ad-interim exparte order for appointment of receiver to take possession of the subject vehicle having **registration No. UP53DR7551** from the respondent, his agents or any person found to be in possession of the same.

2. The case of the petitioner is that the respondent after availing the loan/finance amount of **Rs. 5,97,879/-** had purchased the subject vehicle out of the aforesaid amount so disbursed under the loan-cum-Hypothecation agreement **dt. 20.08.2022.** The respondent has agreed to pay the entire loan amount along with the interest in **60 EMI's**. He has, however, defaulted in payment of the EMI's. The petitioner has recalled the loan vide notice **dt. 19.11.2024** and has requested the respondent to handover the possession of the said vehicle and an amount of **Rs. 5,52,384/-** is due from respondent as on date **i.e. 19.11.2024.**

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

4. Considering the facts and circumstances of the case and the fact that the respondent is defaulter to the tune of **Rs. 5,52,384/-**, the apprehension of the petitioner that the subject vehicle may be disposed of by the respondent during pendency of dispute is not totally mis-conceived.

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

(1) **Sh. Nitin Chauhan,** Authorized Representative of the applicant company is appointed as a receiver in this case to take into his custody the vehicle having **UP53DR7551** from the respondent, his agents or any other person found possessing the vehicle.

(2) 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.

(3) 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 or physically/mentally challenged person. In such cases, the receiver shall take the possession of the vehicle from the borrower's residence.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

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

(10) 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.

(11) This order shall remain valid for three months from today.

(12) 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.

(13) 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.

(14) **The application for ex parte Interim Relief filed on behalf of the petitioner is accordingly disposed off, as elaborated above.**

(15) It is made clear that in the event of steps not being taken for service of the respondent or the arbitration not being initiated within 15 days of the order, the petition shall be dismissed for non prosecution.

6. Notice of the petition be served upon the respondent on filing of PF and RC, within a week's time.

7. In these circumstances, in the interest of justice, the petitioner is directed to get the respondent served vide PF/ Speed Post/ Whatsapp and Email for **12.07.2025**. The petitioner is also directed to file the affidavit of service on the respondent on the next date of hearing.

Copy of this order be given Dasti.

Put up on **12.07.2025**.

(**Sandeep Yadav**)
District Judge (Commercial Court)-03
South/24.05.2025