

IN THE COURT OF SH. MUNISH BANSAL,
DISTRICT JUDGE-03, SOUTH DISTRICT,
SAKET COURTS, NEW DELHI.

ARBTN 254/25
IDFC FIRST BANK LTD VS. MITHLESH KUMARI

02.04.2025

Present:- Sh. Keshav Dudeja, Ld. Counsel for Petitioner.

1. Present petition has been filed by the petitioner under Section 9 of the Arbitration & Conciliation Act seeking interim relief for appointment of Receiver.

2. Ld. Counsel for the petitioner has pointed out that since the seat of arbitration as per clause **13.10** of the loan agreement was at Delhi, therefore, this court has the territorial jurisdiction to entertain and try the present petition.

3. Let notice of the present arbitration petition be issued to the respondent on filing of PF, speed post or approved courier within a week.

4. Petitioner is a company incorporated under the Companies Act, 1956 which is engaged in the business of rendering financial/credit facility in the form of loan etc. to the intending borrowers.

5. As per claim of the Petitioner, the Respondent applied for loan for the purpose of purchasing vehicle/machine **TVS MOTORS APACHE RTR** having **Engine No. AE8NP2610662, Chasis No. MD634BE86P2N10937** having **registration number DL9SCL7819**. The loan of **Rs.1,39,000/-** was acceded to the respondent vide written loan agreement bearing No. **140198980**, dated **17.12.2023** and the same was agreed to be repaid by the respondent in **36** installments of **Rs.5,223/-** each. As on date, there is default of **09** installments and further payment of **22** future installment is pending. As the respondent failed to repay the loan amount and interest thereon despite numerous demands, petitioner company

issued a legal-cum-recall notice dated **13.03.2025** calling the respondent to make the payments. However, respondent did not respond the said notice, hence this petition.

6. Ld. Counsel for petitioner has pointed out as per the information, the respondents are intending to dispose of/sell/transfer the said vehicle and hence, petitioner has prayed that a receiver may be appointed to repossess the vehicle.

7. Prima facie, a case, for grant of an order for interim custody of the vehicle, so as to secure the amount due and payable to the petitioner by the respondents, appears to be made out and delaying or postponing the grant of interim protection to which the petitioner appears entitled to, is likely to defeat the object of filling the present petition.

8. In view of the same, Sh. Anoop Srivastava, representative of the petitioner company is appointed as a receiver in this case to take into custody the vehicle/ machine **TVS MOTORS APACHE RTR** having **Engine No. AE8NP2610662, Chasis No. MD634BE86P2N10937** having **registration number DL9SCL7819** from the respondent, his agents or any other person found possessing the vehicle. Copy of identity card of representative of the petitioner has been filed.

9. The following directions are accordingly issued for the Receiver :-

a) The receiver shall take over the possession of the vehicle/machine 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/machine wherever found. However, the receiver shall not stop a running vehicle/machine 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 to bring it to a halt to take its possession.

b) The receiver shall avoid taking the possession of the vehicle if the vehicle/machine is occupied by a woman who is not accompanied by a male

member or by 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.

c) The receiver shall be at liberty to take the assistance of the local police, if required, for taking over possession of the vehicle/machine. The concerned SHO shall provide assistance to the receiver as and when requested.

d) At the time of taking the custody of the vehicle/machine, the receiver shall deliver a copy of this order to the person from whom the possession is taken against proper receipt.

e) At the time of taking the custody of the vehicle/machine, the receiver shall take the photographs of the vehicle from different angles along with the person(s) occupying the vehicle as well as the place of taking over the possession.

F) The receiver shall prepare an inventory of the articles/accessories found in the vehicle and shall furnish the copy of the inventory to the person from whom the possession is taken. The receiver shall also note down the reading of the odometer. The receiver shall ensure that any belonging of the respondent except the accessories of the vehicle/machine shall be returned to the person from whom, vehicle is taken into possession.

g) After taking the vehicle in possession, the receiver shall keep the vehicle/machine in safe custody and the receiver shall not sell off the vehicle without the permission of the arbitrator.

h) The receiver shall release the vehicle/machine in question to the respondent on superdari subject to payment of all outstanding installments as on date of possession within three days thereof subject to undertaking that he shall make regular repayment of future monthly installments. A Declaration to the effect to not to create any third party interest in the vehicle/machine until the entire loan amount is paid, shall also be taken.

I) The receiver shall submit his report before this Court within 7 days of taking the custody of the vehicle/machine along with the photographs and inventory mentioned above.

j) The respondent/ his representative from whose possession the vehicle is seized shall be at liberty to move an appropriate application before this court or before the arbitrator, if appointed, in case the respondent is aggrieved with the seizure of the vehicle.

k) The petitioner shall refer the dispute to arbitration in terms of the loan agreement, if not already referred for appointment of the arbitrator within a period of four weeks from today and inform the Court in writing about the same.

l) In case the vehicle/machine is not repossessed within a period of two months from the date of this order, the present order shall cease to be in operation, as the present proceedings are only interim measures with the dispute being required to be adjudicated by the Arbitrator.

Ordered accordingly.

At request, copy of this order be given dasti to the petitioner. Now to come up on 05.07.2025 for report by receiver as well as service report of the respondent.

[MUNISH BANSAL]
DJ-03 [SOUTH DISTRICT]/ SAKET COURT
NEW DELHI /02.04.2025