

OMP (I)(COMM.) 1310-26

M/s Kotak Mahindra Bank Ltd. Vs. Saroha Earth Movers & Ors

13.04.2026

Fresh petition under Section 9 of the Arbitration & Conciliation Act, 1996 has been received on allocation.

It be checked and registered as per rules.

Present: Sh. Sumit Kumar, Ld. Counsel for the petitioner. (VC)

Fresh petition under Section 9 of the Arbitration and Conciliation Act along with application has been filed by the petitioner seeking ex-parte, ad interim order for appointment of receiver to take possession of vehicle make **CB BACKHOE LOADER XTRA 3DX JCB**, bearing registration No. **HR-10-AK-1858** having Engine No. **H00267812** & Chassis No. **RAJ3DXXTC02956725**.

Ld. Counsel for the petitioner states that a notice dated **25.02.2026** was issued to the respondent for appointment of the Arbitrator but the said notice has not been complied with by the respondent. It is further stated that the arbitration clause has been invoked by the petitioner for appointment of the Arbitrator by virtue of the said notice dated **25.02.2026**.

In brief the case of the petitioner is that the respondent approached the petitioner for grant of loan facility for purchase of the vehicle mentioned above. On the request of respondent, petitioner sanctioned the loan amounting to **Rs. 18,06,143/-** vide **loan agreement no. CE1393123** dated **20.02.2024**.

The respondent purchased the said vehicle. The loan amount was repayable in **35** equated monthly installments of

Rs. 62,380/-. The petitioner further stated that the respondent undertook not to part with the possession of the above said vehicle and that the petitioner shall be entitled to repossess the vehicle in question, in case of default in the repayment of the loan.

It is alleged that the respondent failed to adhere to the financial discipline of repayment of the loan. The petitioner issued a legal notice dated **27.08.2025** to the respondent intimating him that an amount of **Rs. 8,41,216.25/-** is due and payable as on **13.02.2026**.

Ld. Counsel for the petitioner has pointed out that there is an arbitration clause in the loan-cum-hypothecation agreement and one of the seats of the arbitration is that of Delhi.

Petitioner has claimed that the respondent has malafide intention of parting with the possession of the above said vehicle unless this Court appoints a receiver to take the charge of the same. Prayer has been made that **Sh. Ashok Kumar, Officer/Executive** of the petitioner company be appointed as receiver to take possession of the above said vehicle from whomsoever and wherever it may be found with powers to take police protection in executing the orders.

I have considered the submissions of the Ld. Counsel for the petitioner and perused the record.

In view of the documents available on record and the fact that the respondent after availing loan facility defaulted in paying 2 EMIs and is using the vehicle and further, there is an apprehension that respondent is going to sell/dispose off/alienate the vehicle in question, this Court is of the considered opinion that it is a fit case for appointment of receiver and grant of interim custody of the vehicle, to

secure the amount due and payable to the petitioner by the respondent.

Accordingly, **Sh. Ashok Kumar, Officer/ Executive** of the petitioner company is hereby appointed as receiver to repossess the vehicle in question, subject to the following terms and conditions: -

- i. That he shall be under direct control of the Court and he shall remain personally present at the time of seizure of vehicle mentioned above. He shall give the copy of the order to the person from whose custody he takes the vehicle. However, if the respondent is ready and willing to pay the outstanding amount, which is subject matter of the present petition, then the receiver shall receive the payment instead of repossessing the vehicle mentioned above.
- ii. That receiver, at the time of seizing the vehicle mentioned above, shall take digital photographs of the vehicle (showing date and time of taking photographs), and also the articles lying therein. Inventory of articles found from the vehicle mentioned above be also prepared.
- iii. That the exact date and time of seizure shall also be noted down and copy of seizure memo shall be supplied to respondent or his/her Authorized Officer at the spot itself. Before taking possession, the respondent shall be permitted to remove his/her belongings from the vehicle mentioned above.
- iv. That the receiver can take help of police, if required. This order itself would amount to a notice/direction to the SHO of the concerned area to provide the requisite assistance to the receiver for repossession of the vehicle. If the vehicle, mentioned above, is seized, the receiver will keep the same in safe custody and safe place so that no damage is caused to the vehicle, mentioned above, of the respondent.
- v. That the receiver shall submit his report within ten days of the seizure of the vehicle in question along with photographs and inventory, mentioned above and such report should also contain the particulars of the person and place from whom/where the vehicle mentioned above has been seized.
- vi. That the receiver shall not take 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 case, the receiver shall take the possession of the vehicle from the respondent's residence only.
- vii. That if the respondent does not make the payment of the outstanding amount to the petitioner within sixty days, the receiver, with the

prior permission of the arbitrator, would be authorized to sell the vehicle in question in public auction with prior written notice (to be sent by speed post AD) of the date of auction to the respondent at the address mentioned in the agreement or the address from where the vehicle is taken into possession so that the respondent may also be able to participate in the auction to enable the petitioner to fetch maximum amount from the sale of the vehicle. The receiver shall make video recording of the auction proceedings and shall submit the same before the arbitrator along with his final report. Copy of the report shall be submitted by the receiver to the arbitrator.

- viii. That the parties are at liberty to apply to the Ld. Arbitrator for issuance of fresh order/modification of this order by moving appropriate application u/s 17 of the Act.

Since, an official of petitioner company is appointed as receiver at specific request, so it is further ordered that petitioner shall also ensure that receiver submits his report within prescribed time and comply with terms and conditions of this order, otherwise Court may release the vehicle mentioned above on the terms and conditions deemed fit by the Court.

The application seeking interim relief for appointment of ex-parte ad-interim receiver stands disposed off.

Issue notice of the petition to the respondent on filing of PF/ RC/Speed Post/approved Courier Service/ through all electronic modes such as WhatsApp and email returnable for **02.06.2026**.

Copy of order be given dasti as prayed.

(Gautam Manan)
District Judge (Commercial Court)-03
South-West, Dwarka Courts, New Delhi
13.04.2026