$~7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ FAO 7/2015

SAPNA AND ORS

..... Appellant

Through: Mr. K.G. Seth, Advocate.

versus

RUPAYAN FINANCE & INDUSTRIAL CORPORATION LTD

..... Respondent

Through

**CORAM:**
**HON'BLE MR. JUSTICE V.K. SHALI**

**<u>O R D E R</u>**

**% 24.02.2016**

1. This is an appeal against the order dated 25.09.2014, by virtue of which the application of the appellant for modification of the order dated 29.01.2013 was rejected.

2. I have heard the learned counsel for the appellant and also considered the record.

3. The predecessor in interest of the appellant had taken some loan for the purchase of vehicle. Since he had failed to pay the loan instalments, therefore the financial institution recalled the loan and took the plea that the predecessor in interest of the appellant was liable to pay a total sum of Rs. 1,18,200/- to the respondent-petitioner and as the same had not been paid, an application under Section 9 of

the Arbitration and Conciliation Act was filed before the learned District and Sessions Court, Delhi, for seeking an ad interim order for repossession of the vehicle. The learned District and Sessions Judge passed an order on 29.01.2013, authorising the repossession of the vehicle. However, liberty was given to the predecessor in interest of the appellant to have the vehicle released, provided he pays the entire amount of Rs.1,18,200/-.

4. This was not done. Thereafter an appeal was filed by the appellant before this court bearing FAO No.91/2014 for variation of original order dated 18.11.2011. My learned predecessor had directed that he should file an appropriate application before the trial court itself and the appeal was disposed of and application was consequently filed, which has been rejected by the impugned order.

5. Now the appellant still feeling aggrieved has preferred the present appeal. The order of repossession has been passed as far back as on 29.01.2013 and since then more than two years have elapsed, therefore to recall that order of re-possession will be inappropriate. Apart from that a perusal of the record shows that arbitration proceedings were also initiated by the respondent financial institution, therefore the proper course for the appellant will be to appear before the arbitrator in case there is any grievance. So far as the present order is concerned, it does not warrant any interference by this court.

6. The same is accordingly dismissed.

**V.K. SHALI, J**

**FEBRUARY 24, 2016 / n**