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

% **Date of Decision: 28th February, 2017**

\+ FAO 81/2016

ICICI BANK LTD ..... Appellant
Through: Mr. Punit K. Bhalla, Adv.

versus

SONU SINGH ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant is seeking *ex parte* appointment of receiver in respect of MARUTI ALTO/K10LXI Vehicle bearing Registration no. HR-26-CL-7870.

2. The appellant instituted a suit for recovery of Rs.3,62,334.37 against the respondent on the ground that the appellant advanced a loan of Rs.3,43,200/- to the respondent for purchase of car make MARUTI ALTO K10/LXI. The loan was repayable in 60 monthly instalments of Rs.7,462/- each. The respondent executed credit facility application, deed of hypothecation and irrevocable power of attorney in favour of the appellant. The respondents committed default after payment of Rs.22,386/-. Vide notice dated 27th April, 2015, the appellant recalled the loan and called upon to the respondents to pay the total outstanding amount. The amount payable

by the respondent as on 9th June 2015 was Rs.4,00,433/-. The appellant instituted a suit for recovery on 29th October, 2015. The appellant also sought an *ex parte* order for appointment of the Receiver which was declined by the learned Trial Court vide order dated 3rd November, 2015.

3. On careful consideration of the submissions made by the learned counsel for the appellant, this Court is satisfied that the appellant has made out a case for *ex parte* appointment of a receiver. The appellant's prayer is allowed and Mr. Raju Singh, a representative of the appellant is appointed as the receiver to take the possession of vehicle MARUTI ALTO/K10LXI bearing registration number HR-26-CL-7870.

4. 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.

5. 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.

6. The receiver shall also ensure that the repossession of the vehicle does not result in any breach of peace. In the event of any breach of peace by the person occupying the vehicle, the receiver shall not proceed without assistance of police.

7. At the time of taking the custody of the vehicle, the receiver shall deliver copy of this order to the person from whom the possession is taken.

8. At the time of taking the custody of the vehicle, 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.

9. 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.

10. After taking the possession of the vehicle, the receiver shall keep the vehicle in safe custody.

11. If the respondent makes payment of the outstanding instalments as on date of possession, the receiver shall release the vehicle in question to the respondent on superdari, subject to an undertaking by the respondent to the receiver for regular repayment of future monthly instalments till the expiry of the tenure and a declaration not to part with the vehicle or create third party interest in the vehicle until the entire amount is paid.

12. If the respondent is not in a position to clear the entire outstanding instalments, the receiver shall give him another opportunity to pay the outstanding instalments within 30 days of taking over the possession of the vehicle and in case the respondent makes the payment of the outstanding instalments within the said period, the receiver shall release the vehicle to the respondent subject to the undertaking as aforementioned.

13. If the respondent does not make the payment of the outstanding amount to the appellant bank within 60 days, the receiver would be authorised to sell the vehicle in question in a public auction with prior written notice (to be sent by Speed Post AD) of the date of auction to the respondent at the address(es) mentioned in the loan 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 appellant to fetch maximum amount from the sale of the vehicle. The receiver shall carry out video recording of the auction proceedings and shall submit the same before the Trial Court along with his final report.

14. That the receiver shall submit his first report before the Trial Court within 10 days of taking the custody of the vehicle along with the photographs and inventory mentioned above. The final report shall be submitted before the Trial Court within 10 days of the public auction along with the proceedings for public auction and video recording of the public auction.

15. The matter be listed before the Trial Court on 1st May, 2017.

16. Copy of this judgment be given dasti to learned counsels for the parties under signature of Court Master.

FEBRUARY 28, 2017 **J.R. MIDHA, J.**

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