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

+ O.M.P.(I) (COMM.) 126/2024 & I.A. 9325/2024

M/S SMAS AUTO LEASING INDIA

PRIVATE LIMITED

.....Petitioner

Through: Mr. Bhuvnesh Satija and Mr. Udit
Sharma, Advocates.

versus

M/S OZO AGRI CARE PRIVATE LIMITED

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.07.2024

1. The present petition, under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], has been filed for interim measures of protection in anticipation of arbitration proceedings between the parties under a Master Lease Agreement dated 13.06.2022 [“MLA”].
2. By way of the MLA, the petitioner, a non-banking financial corporation, agreed to lease vehicles to the respondent on the terms and conditions contained therein, including payment of lease rent as provided under the MLA. The MLA contains a dispute resolution clause [Clause C.5.1]. Under this clause, the parties are required to attempt an amicable settlement, failing which the disputes are to be referred to arbitration of a sole arbitrator. New Delhi has been designated as the place of arbitration. Clause C.5.2 of the MLA also vests exclusive jurisdiction in the Courts in New Delhi over any disputes arising out of the MLA.

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3. The petitioner claims to have leased fourteen vehicles to the respondent, pursuant to the MLA. Printouts of the order confirmation forms, showing the lease rent due in each of the said vehicles, have also been placed on record. The registration certificates of the vehicles have also been filed by the petitioner, which show that the vehicles were hypothecated to it.

4. According to the petitioner, the respondent has failed to pay the lease rent due under the MLA, which entitles the petitioner to terminate the MLA on a combined reading of Clauses C.3.1 and C.3.3 thereof. In such circumstances, the petitioner is entitled to repossess the vehicles.

5. The petitioner, through counsel, has addressed two legal notices to the respondent dated 07.02.2024 and 05.03.2024.

6. In these circumstances, the petitioner seeks interim measures of protection directing the respondent to hand over the possession of the vehicles and protection of petitioner's interest in the vehicles by the appointment of a receiver.

7. While issuing notice in the petition, by order dated 29.04.2024, this Court granted an *ad-interim* order to the extent that the respondent maintain *status-quo* as to title and possession of fourteen vehicles enumerated below:

S. NO.	Vehicles Model Name	Registration No.
i.	Tata Safari XZA+ 1956	TS07JL 1112
ii.	Tata Safari XZA+ 6S Dark 1956 cc 6str	TS07JH1745
iii.	Maruti Suzuki Swift VXI 1197	TS07JH1757



iv.	Maruti Suzuki Swift VXI 1197	TS07JH1751
v.	Maruti Suzuki Swift VXI 1197	TS07JH1752
vi.	Maruti Suzuki Swift VXI 1197	TS07JH1754
vii.	Maruti Suzuki Swift VXI 1197	TS07JH1756
viii.	Maruti Suzuki Swift VXI 1197	TS07JL1871
ix.	Maruti Suzuki Ertiga Smart Hybrid VXI 1462	TS07JH1749
x.	Maruti Suzuki Ertiga Smart Hybrid VXI 1462	TS07JH1750
xi.	Volkswagen Virtus GT Plus DSG 1.5L TSI	TS07JL1238
xii.	TATA Harrier XZA+ BLK 2.0L KRY	TS07JH1746
xiii.	Maruti Suzuki Ertiga Smart Hybrid	TS07JH1748
xiv.	Maruti Suzuki Ertiga Smart Hybrid	TS07JH1747

8. Learned counsel for the petitioner has filed two affidavits of service, both dated 18.07.2024.

9. In the first affidavit of service, it is stated that notice and a copy of the petition were served upon the respondent's office at 5-5-145/106, Hills Colony, Road No. 5, Vansathalipuram, Hyderabad, Telangana-500070, through speed post and courier on 24.05.2024. The speed post was delivered on 27.05.2024 and the courier was delivered on 28.05.2024. They have also been served by e-mail at the email address: ravikumar.sudda36@gmail.com and ozoagricarepvtltd@gmail.com on 17.07.2024. Copies of the courier by speed post tracking report showing delivery have also been annexed.



10. In the second affidavit of service, learned counsel for the petitioner, has averred that the order of this Court dated 29.04.2024 has also been served in the same manner and was served upon the addressee by speed post on 08.05.2024.

11. Learned counsel for the petitioner confirms that the registered office of the respondent – company is located at the aforesaid address, as reflected in the Ministry of Corporate Affairs database even today. In view of Sections 12 and 20 of the Companies Act, 2013, service upon the registered office by speed post is sufficient. The respondent has, however, failed to enter appearance.

12. The petition is, therefore, disposed of with the following directions:

- a. Mr. Satija states that the petitioner has invoked arbitration by notice dated 16.07.2024 addressed to the respondent. The petitioner is permitted to take necessary steps with regard to constitution of the arbitral tribunal in accordance with law.
- b. Upon the constitution of the arbitral tribunal, the petitioner will be at liberty to seek interim orders, under Section 17 of the Act from the Tribunal.
- c. The *ad-interim* order dated 29.04.2024 will remain in operation for a period of three months from today, subject to any orders that the arbitral tribunal may pass.

13. All pending applications stand disposed of.

PRATEEK JALAN, J

JULY 22, 2024/SS/