

ORDER

OCD-23

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/407/2025
KOTAK MAHINDRA PRIME LTD
VS
BINOD KUMAR CHAHARIA AND ANR.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 19th May, 2025.

Appearance:

Mr. Amritam Mandal, Adv.
Mr. Jit Ray, Adv.
Mr. Aharnish Ghosh, Adv.
... for the petitioner.

Mr. Aranyak Saha, Adv.
Mr. Saswata Ganguly, Adv.
Ms. Ipsita Ghosh, Adv.
... for the respondents.

1. Learned advocate for the respondents shall file Vakalatnama in course of the week.
2. This is an application under Section 9 of the Arbitration and Conciliation Act, 1996.
3. The petitioner is a lender. The petitioner advanced two loans in favour of the respondents. One, for purchase of a vehicle being a KIA Seltos Car and the other was a personal loan. The loans were repayable as per the repayment schedule of the agreements. Admittedly, there were defaults.
4. Under such circumstances, the petitioner proceeded to terminate the loans and requested the respondents to pay up the dues. The respondents did not do so. The petitioner invoked arbitration. The respondents replied to the

said notice invoking arbitration stating that, unilateral appointment of an arbitrator was no longer permissible in law. The respondents also disputed the quantum claimed.

5. When the unilaterally appointed arbitrator proceeded in the matter, the petitioner questioned the jurisdiction, by filing an application under Section 16 of the Arbitration and Conciliation Act, 1996. The application was pending final disposal. The petitioner filed an application for withdrawal of the proceeding with liberty to proceed in accordance with law. Such prayer of the petitioner was allowed. Thus, as it stands today, the learned arbitrator has withdrawn from the proceeding, granting liberty to the petitioner to take appropriate steps. The orders passed by the learned arbitrator are taken on record.
6. Considering the above facts and circumstances, this Court is of the view that as the vehicle has been purchased by the respondents with the money advanced by the lender for the personal use of the respondents, appointment of a receiver over the same is not warranted in the facts and circumstances of this case. However, it is made clear that the said vehicle will be used solely for the personal use of the respondents. The nature and character of the same shall not be changed. The vehicle shall not be alienated or encumbered. The vehicle shall not be removed from the jurisdiction in which it is at present, except for day to day use. This order shall continue for 90 days from date.

7. The petitioner submits that an amount of more than Rs.13 lakh is due and payable. This amount is disputed by the respondents. This Court is not required to adjudicate the quantum of dues. The same shall be decided at the appropriate stage.
8. The application is accordingly disposed of.

(SHAMPA SARKAR, J.)