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

+ **ARB.P. 1548/2024**

KOTAK MAHINDRA PRIME LTD.

.....Petitioner

Through: *Appearance not given*

versus

MUDASSIR ALAM SIDDIQUI & ANR.

.....Respondents

Through: **None**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

10.12.2025

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1. The present Petition has been filed under Section 11 of Arbitration and Conciliation Act, 1996 [**“Arbitration Act”**] for appointment of an Arbitrator to adjudicate upon the disputes between the parties under a Loan Agreement dated 30.09.2022.
2. The facts of the case as stated in the Petition reveal that the Petitioner sanctioned a car loan to the Respondents *vide* an agreement dated 30.09.2022 bearing no. CF20837454 for a sum of Rs. 10,04,018/- .
3. It is stated by the Learned Counsel for the Petitioner that the Respondent did not adhere to the terms and conditions of the Loan Agreement.
4. It is stated that an application under Section 9 of the Arbitration Act was filed by Petitioner before the learned District and Session Court, South District, Saket Courts, Delhi, which was allowed *vide* Order dated



29.04.2024 and a Receiver was appointed a receiver to take the possession of the vehicle. The said Order reads as under:

“Respondent has been served on 20.04.2024 through his sister-in-law. Respondent has also been served through Whatsapp, email as well as tracking report filed on record. None has appeared on behalf of respondent, nor any objection/reply filed. Arguments addressed on the application filed U/s 9 of the Arbitration and Conciliation Act, 1996 for appointment of receiver for the hypothecated vehicle, Perused the record. Ld. Counsel for petitioner has prayed for order for appointment of receiver for taking possession of the hypothecated vehicle. The application for appointment of receiver has been filed to seize the vehicle, namely, "MARUTI BREEZA ZXI+DUAL TONE" bearing Registration no. DL2CBD6051 which was hypothecated with the petitioner in pursuance of the Loan Agreement no. CF20837454 dated 30.09.2022. It is submitted that, till date, the respondent has defaulted in payment of 05 installments and is liable to pay a sum Rs. 9,54,128/- as on date of filing of the petition. The petitioner submits that if the respondent succeeds in disposing the vehicle directly or indirectly, the petitioner shall suffer irreparable loss and injury, and the recovery of the decretal amount and the costs may become impossible. It is further submitted that the respondent has violated the terms and conditions of the agreement and the representative of the petitioner be appointed as receiver to seize the aforesaid vehicle. In view of these facts and circumstances, it is considered as expedient that a receiver is appointed in this case, for seizing the vehicle "MARUTI BREEZA ZXI+DUAL TONE" bearing Registration no. DL2CBD6051. Accordingly, Sh. Mohit Kumar, representative of the petitioner bank, is appointed as receiver who is authorized to take over the possession of the "MARUTI BREEZA ZXI+DUAL TONE" bearing Registration no.



DL2CBD6051. The receiver shall take over the possession of the vehicle, from the respondent, at the address given in the loan application. If the vehicle is not available at the said address, the receiver shall be at liberty to recover the vehicle, wherever, found. However, the receiver shall not stop a running vehicle on the road to forcibly take out the driver to take the possession of the vehicle. The receiver shall also not make any attempt to block the passage of the vehicle, to bring it to a halt to take its possession. The receiver shall avoid the taking of the possession of the vehicle, if the vehicle is occupied by a woman, who is not accompanied by a male member, or in case, she is accompanied by an elderly, infirm or physically/mentally challenged person. In such a case, the receiver shall take the possession of the vehicle, from the borrower's residence. The receiver shall also ensure that the repossession of the vehicle, will not result in the breach of the peace and in the event of any breach of peace by the person occupying the vehicle, the receiver shall not proceed further, without the assistance of the police. At the time of taking the custody of the vehicle, the receiver shall deliver a copy of this order to the person, from whom the possession is taken. The receiver is directed to prepare the detailed description of the general condition of the vehicle in question, alongwith the photographs of the same. The receiver may take police assistance, if required. The SHO of the local area will provide the assistance to the receiver, if so required. Receiver shall hand over the vehicle, to the petitioner, on superdari and, the petitioner shall, in all circumstances, keep the vehicle in question in proper condition and shall not dispose of or, use the same, in any manner, without the prior permission of the court/Ld. Arbitrator. Receiver is, accordingly, directed to prepare a detailed report, together with photographs of the vehicle & valuation of the vehicle, at the time of repossession, by an



independent valuer. The cost of the valuation shall be borne by the petitioner. It is stated by the Ld. counsel for the petitioner that arbitration proceedings are likely to be initiated soon. Arbitral proceedings shall be initiated by petitioner within 30 days. As noted in the petition, the petitioner intends to initiate arbitration proceedings before Ld. Arbitrator, Sh. Ashok Taneja, Chamber No. 325, Third Floor, Lawyer's Block, Saket Courts, New Delhi. It is made clear to the petitioner that the appointment of arbitrator shall not be unilateral and shall be strictly following the provisions of Arbitration and Conciliation Act, failing which the order for seizure of vehicle shall be deemed to be vacated. The receiver shall make efforts for settlement and if the respondent is ready to settle, the vehicle shall not be seized. It is also directed that the receiver shall explain the contents of this order as well as proceedings to the respondent in vernacular language and shall also record the statement of respondent in vernacular (or the language in which the respondent is conversant) regarding handing over of the said vehicle/ non settlement/inability to pay the outstanding EMIs at the time of repossession. It is stated by Ld. counsel for the petitioner that arbitral proceedings are likely to be initiated very soon and in any case shall be initiated as per the time frame given by this Court. Respondent shall be at liberty to take the objections, if any, in the arbitration proceedings. In view of the above facts and circumstances, nothing survives in the present petition, accordingly, the present petition stands disposed off. File be consigned to record room. Copy of this order be given dasti, as requested.”

5. Material on record discloses that no notice under Section 21 has been issued for initiating Arbitration.
6. It is well settled that an issue subsequent to Section 21 of the



Arbitration Act is *sine qua non* for initiating the process of Arbitration. The Apex Court in the judgment of Adavya Projects (P) Ltd. v. Vishal Structural (P) Ltd., (2025) 9 SCC 686 has held as under:

“ 22. It is clear that by fixing the date of commencement of arbitral proceedings by anchoring the same to a notice invoking arbitration, Section 21 ACA fulfils various objects that are time-related. The receipt of such notice is determinative of the limitation period for substantive disputes as well as the Section 11 application, and also the law applicable to the arbitration proceedings.

23. In this case, a Section 21 notice was undisputedly issued by the appellant under Clause 40 of the LLP agreement on 17-11-2020; but the problem arises because this notice was issued only to Respondent 1. However, there is nothing in the wording of the provision or the scheme of the ACA to indicate that merely because such notice was not served on Respondents 2 and 3, they cannot be impleaded as parties to the arbitral proceedings. The relevant considerations for joining them as parties to the arbitration will be discussed at a later stage.”

7. Faced with the aforesaid, learned Counsel for the Petitioner seeks permission to withdraw the present Petition, for the purpose of issuing a notice under Section 21 of the Arbitration Act and thereafter approach this Court, in case an Arbitrator is not appointed.

8. Leave and liberty as prayed for, is granted.

9. In view of the above, the Petition is disposed of as withdrawn, with aforementioned liberty.

SUBRAMONIUM PRASAD, J

DECEMBER 10, 2025/ss