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

\# **CNR No. DLHC010549442026**

\+ O.M.P.(I) (COMM.) 536/2026

ADITYA BIRLA CAPITAL LIMITED .....Petitioner

Through: Mr. Aman Vasisth, Advocate.

versus

VSG MOTORS AND ORS .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER (ORAL)

% 20.11.2026

I.A. 31486/2026 (Exemption from filing legible, clear copies)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

O.M.P.(I) (COMM.) 536/2026

3. The present petition under Section 9 of the Arbitration and Conciliation Act, 1996[1] has been filed seeking the following reliefs:

> *"(i) Pass an ad-interim and ex-parte order against the Respondents thereby directing the Respondents to furnish on affidavit the details of their bank accounts and movable and immovable assets /properties and for the attachment of such movable and immovable properties of the Respondents: and/ or*
>
> *(ii) Pass an ex-parte and ad-interim order to secure the amount in dispute by directing the Respondents to furnish bank guarantee of*

[1] "Act" hereinafter

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equivalent amount in favour of the Petitioner; and/or

(iii) Pass an ex-parte and ad-interim order restraining the Respondents in any manner from transferring, disposing, alienating, hypothecating, charging or parting with possession of or transferring or creating any right, title or interest in favour of anyone else in respect of the secured asset with the Petitioner and other assets /properties, movable and immovable and the attachment of the movable and immovable properties, to secure the rights and interest of the Petitioners; and/ or

(iv) Pass an appropriate order directing the Respondents to remove all articles, goods and materials lying in the mortgaged property and restraining them from creating any third-party rights or interests therein. Further, direct that any third-party rights or interests already created in respect of the mortgaged property be suspended forthwith; and/ or

(v) Pass an ex-parte and ad-interim order to freeze all the bank accounts linked to (i) PAN Card bearing no. AAJFV8353N of Respondent no.1; (ii) PAN Card bearing no. AOHPK6148Q of the Respondent no. 3; (iii) PAN Card bearing no. ALJPMI 993N of the Respondent no. 4; (iv) PAN Card bearing no. BLZPP4671F of the Respondent no. 5 (v) PAN Card bearing no. DDSPS2059K of the Respondent no. 6 thereby directing concerned banks not to permit any transactions in those accounts; and/or

(vi) Pass an appropriate direction/order directing the State Bank of India to freeze the bank account of Respondent No. 1 bearing Account No. 00000034679359465 and IFSC Code- SBIN0007023, maintained with the State Bank of India, and restrain Respondent No. 1 from withdrawing, transferring, or otherwise dealing with the funds lying therein, during the pendency of the present proceedings; and/or

(vii) Pass an ex-parte and ad-interim order directing the Respondents to furnish bank statements of the preceding three years; and/or

(viii) Pass an ex-parte and ad-interim order directing the Respondents to produce the stock statement and appoint an Auditor for the purpose of inspection of such available stock and for inspection of the books of
accounts of the Borrower; and/ or

(ix) Pass an ex-parte and ad-interim order directing the Respondents to furnish the details of all the Receivables in favor of Respondent no.1; and/or

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(x) Pass any such other order(s) as this Hon'ble Court may deem fit and proper in the interest of justice."

4. It is the case of the Petitioner that the Respondents had availed various financial facilities from the Petitioner, which were subsequently restructured by sanction letter dated 17.09.2021 aggregating to Rs.5,64,99,087/-

5. It is further the case of the Petitioner that in order to secure the aforesaid financial facilities, the Respondents *inter alia* created a mortgage in favour of the Petitioner in respect of an immovable property situated at Tiruppur, Tamil Nadu.

6. Learned Counsel for the Petitioner submits that owing to persistent defaults committed by the Respondents were classified as Non-Performing Assets on 27.09.2026. It is further submitted that despite issuance of the Loan Recall Notice dated 12.10.2026, the Respondents had failed to discharge the outstanding liability of Rs.5,29,47,893.94/-.

7. Accordingly, the Petitioner has approached this Court seeking interim measures for securing the outstanding amount

8. I have heard learned Counsel for the Petitioner and perused the material placed on record.

9. The Division Bench of this Court in ***M/s Axis Finance Ltd v.***

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Rishab Mago & Ors[2], upheld the dismissal of a petition under Section 9 of the Act, taking into consideration the existence of mortgage security and the availability of statutory remedies and the absence of circumstances warranting interim protection.

10. Admittedly, the Petitioner has already taken recourse to the provisions of the SARFAESI Act, 2002, by issuing a demand notice under Section 13(2) thereof.

11. Learned counsel for the Petitioner seeks to distinguish the judgment rendered by the Division Bench of this Court in ***Rishab Mago*** (supra) by contending that, unlike in the said case, the Petitioner has neither taken symbolic possession of the mortgaged property under Section 13(4) of the SARFAESI Act nor are any proceedings pending before the Debts Recovery Tribunal.

12. In these circumstances, upon a specific query being put by this Court as to whether the Petitioner would be willing to furnish an undertaking that it shall not proceed further under the SARFAESI Act, learned counsel for the Petitioner expressed his unwillingness to furnish any such undertaking.

13. This court is aware that multaneous recourse to arbitration and SARFAESI proceedings is permissible as per ***M.D. Frozen Foods Exports (P) Ltd. v. Hero Fincorp Ltd.***[3]

14. However, this Court is of the view that the mere absence of proceedings before the Debts Recovery Tribunal would not, by itself,

[2] FAO(OS)(COMM) 157/2026

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warrant the grant of interim protection under Section 9 of the Act.

15. The underlying rationale of the binding judgment of the Division Bench is to discourage recourse to multiple forums for securing the same outstanding amount in the absence of circumstances warranting such additional protection.

16. In the present case, the Petitioner admittedly holds a subsisting security interest over the mortgaged property and has already taken recourse to the statutory mechanism for its enforcement.

17. However, no material has been placed on record to demonstrate the inadequacy of the existing security or the necessity for granting additional interim protection under Section 9 of the Act.

18. It is also pertinent to note that any subsequent creation of third-party rights in respect of the mortgaged property would ordinarily remain subject to the subsisting rights of the Petitioner as a mortgagee.

19. In any case, the distinction sought to be drawn by learned counsel for the Petitioner does not come to its rescue as the pendency of proceedings before the DRT was not the only consideration which weighed with the Division Bench in declining interim protection.

20. It cannot be ignored that the Division Bench also took into consideration the existence of mortgage security and the failure of the creditor to demonstrate an immediate necessity for additional interim

[3] (2017) 16 SCC 741

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protection.

21. In view of the aforesaid, this Court finds no ground to exercise its discretionary jurisdiction under Section 9 of the Act.

22. The present petition is, accordingly, dismissed.

23. Needless to state, the dismissal of the present petition shall not preclude the Petitioner from pursuing such other remedies as may be available to it in accordance with law.

OM PRAKASH SHUKLA, J

NOVEMBER 20, 2026/pa

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