

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

O.S.A. No.65 of 2016

K.B.Shankar

... Appellant

-Vs-

1. M/s.Galada Finance Limited
Rep. By its Manager G. Ramesh
'Shanthi Sadan', Old No.4, New No.7,
Shaffee Mohammed Road,
Thousand Lights, Chennai.

2. Jose George

... Respondents

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent, against the Decree and Judgment dated 05.01.2016 passed in Appln.No.3882 of 2015 on the file of original side of this Court.

Appln.No.3882 of 2015 : Application praying that this Court be pleased to direct the 1st Respondent to redeliver the "Audi" A420TDI 2011 bearing registration No.TN07BR1333, Engine No.CME003258 and Chassis No.WAVZKBCY700628 to the Applicant.

For Appellant : Mr.S.R.Rajagopal

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appellant wants to ride an Audi, but not pay for it ! On our query, we are informed that two vehicles were taken on hire purchase basis and undisputedly, there were defaults. In the proceedings under Section 9 of the Arbitration and Conciliation Act, 1996, initiated by the first respondent / Financier, an MOU was arrived at and even that was not honoured. We fail to appreciate a principle where in contractual matters of this

nature parties seek to raise issues about the terms of the contract when they have with an open eye entered into the contract. The vehicle in question in possession of the first respondent was, thus, sold and intimated vide letter dated 18.03.2015 and the appellant then claimed that it was sold at a lower price.

2.In terms of the impugned order of the learned Single Judge dated 05.01.2016, the prayer for return of the vehicle has been rightly declined. We may note that even if the case of the appellant is of a wrongful sale of the vehicle, that issue can be urged in the arbitration proceedings for adequate monetary adjustment. No direction can be issued to return the vehicle, which was re-sold about a year back.

3.We find no reason to interfere with the impugned order.

4.Original Side Appeal, accordingly, stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

The Sub-Assistant Registrar,
Original Side,
Madras High Court,
Chennai.

+1cc to Mr.S.R.Rajagopal, Advocate, S.R.No.16855

O.S.A.No.65 of 2016

CA(CO)
CA(01/04/2016)

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