

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.6344 of 2011 (O&M)
Date of decision : 09.08.2016

Kotak Mahindra Prime Ltd.

...Appellant

Versus

Naveen Kumar Dhiman and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. A.D.S. Sukhija, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

CM No.25164-CII of 2011

The application is allowed as deficiency in Court fees has been made good subject to all exceptions.

Applications stands disposed of.

CM No.25165-CII of 2011

For the reasons stated in the application, which is duly supported by an affidavit, delay of 3 days in filing the appeal is allowed.

Application is allowed.

Main Case

The appellant-Financier is aggrieved of the impugned order,

whereby prayer in the application filed under Section 9 of 1996 Act for appointment of Receiver for taking the possession of vehicle bearing registration No.HR-01-S-1329, has been declined.

Mr. A.D.S. Sukhija, learned counsel appearing on behalf of appellant submits that in pursuance to the loan agreement with regard to the vehicle, having been entered into between the appellant and respondent, respondent defaulted in making the payment of installments. It is, in this background of the matter, application, aforementioned was filed. Though, the terms and conditions of the agreement provided for taking the possession of the vehicle but yet the assistance of the Court was sought but the Court instead of giving the custody/appointment of receiver has restrained the respondent from selling the vehicle in question. He submits that during the pendency of the appeal, certain payments qua the outstanding payments had been paid and thereafter respondent defaulted and even counsel has also stopped appearing in the Court.

I have heard learned counsel for the appellant and appraised the paper book

If at all the appellant is aggrieved of the breach of the terms and conditions of the agreement, seek the resolution of the dispute through Arbitration proceedings, nothing prevented the appellant to seek redressal of the grievance by the intervention of the Arbitration by seeking the appointment of the arbitrator. Once there is already restraint order against the respondent for selling the vehicle, same can always be looked into, even application before the arbitrator can be again pressed by invoking the provision of Section 17 of 1996 Act.

With the aforementioned observations, I do not intend to differ with the findings arrived at by the Courts below.

No ground for interference is made out.

Dismissed.

09.08.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No