

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

**Writ Appeal No.1435 OF 2017**

**Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Admittedly, the appellant-writ petitioner has failed to pay the Easy Monthly Instalments (EMIs) for a few months, which resulted in their lorry being seized by the 2<sup>nd</sup> respondent and retained in his custody.

The appellant-writ petitioner has invoked the jurisdiction of this Court contending that the 2<sup>nd</sup> respondent had the remedy of arbitration or to seek attachment of the lorry; and, without doing so, they could not have high-handedly seized the vehicle belonging to the appellant-writ petitioner.

The fact that the appellant-writ petitioner has defaulted in payment of three EMIs, is not in dispute. While the appellant has contended that the action of the 2<sup>nd</sup> respondent is illegal, the fact remains that he has also not adhered to his part of the agreement which required him to pay the EMIs, to the 2<sup>nd</sup> respondent-bank, on time. In any event, as the substantive Writ Petition is still pending adjudication before the learned Single Judge, it would be wholly inappropriate for us to examine these contentions on merits.

The learned Single Judge has, in the order under appeal, permitted the appellant-writ petitioner to file a representation, and had directed the 2<sup>nd</sup> respondent to consider the representation of the appellant-writ petitioner, for accepting over dues of the EMI; and to thereafter release the vehicle in the appellant-writ petitioner's favour. The order under appeal sufficiently safeguards the interests of the

appellant, while at the same time ensuring that the amounts due to the 2<sup>nd</sup> respondent-bank are paid.

In an *intra-Court* appeal, under Clause 15 of the Letters Patent, that too against an interlocutory order, interference would be justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

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(RAMESH RANGANATHAN, ACJ)

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(M. GANGA RAO, J)

22<sup>nd</sup> September, 2017

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