

27.01.2021
SL No.13
Court No.12
(gc)

FMAT 710 of 2019
With
CAN 1 of 2019
(Old No: CAN 6827 of 2019)
with
CAN 2 of 2019
(Old No: CAN 6828 of 2019)

Sk. Sukoor Ali
Vs.
Indus Ind Bank Ltd.

(Via Video Conference)

Mr. Asit Kumar Bhattacharya,
...for the Appellant.

Ms. Aishwarya Chatterjee,
Ms. Soni Ojha,
...for the Respondent.

Re: CAN 1 of 2019 (Old No: CAN 6827 of 2019)

There is a delay of 15 days in presenting the memorandum of appeal. We have perused the application for condonation of delay and we are satisfied with the explanation offered for not being able to prefer the appeal within time.

The application for condonation of delay being CAN 1 of 2019 (Old No: CAN 6827 of 2019) is allowed.

Re: FMAT 710 of 2019
With
CAN 2 of 2019 (Old No: CAN 6828 of 2019)

By consent of the parties the appeal and application are taken up together and disposed of by this common order.

The appeal is arising out of an order refusing to pass ad-interim injunction. The Trial Court refused to pass order in view of the fact that the suit has not been properly valued. The matter was fixed on 28th June, 2019 for report regarding valuation. It appears from the plaint case that due to failure on the part of the plaintiff to pay two instalments, the defendant had seized the vehicle.

The learned Trial Judge shall dispose of the injunction application as expeditiously as possible if it had not been disposed of as yet. In the event the injunction application is pending, the learned Trial Judge shall call for a report from the Bank with regard to the status of the vehicle seized and if the parties agree to a settlement upon payment of the instalments that could be in arrears may pass an appropriate direction for regularising the EMIs subject to the consent by the parties. It is merely a suggestion and not a direction upon the learned Trial Judge.

This order is also subject to the consideration of the valuation report and the plaintiff having put in the requisite court-fees. We pass this order as the learned Counsel for the parties have failed to apprise this Court of the development that had taken place after 28th June, 2019 and as to the status of the vehicle.

On such consideration, the appeal being FMAT 710 of 2019 and the injunction application being CAN 2 of 2019 (Old No: CAN 6828 of 2019) stand disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Aniruddha Roy, J.)

(Soumen Sen, J.)