

**FMAT 563 of 2020
with
IA CAN 1 of 2020**

Latip Ali Molla

- Versus -

HDB Financial Services Limited

(Through Video Conference)

Mr. Asit Kumar Bhattacharya

.....For the appellant

Ms. Debaleena Ganguly

Ms. Tutul Das Singh

Mr. Amar Singh

Ms. Pooja Sett

.....For the respondent

This appeal is arising out of an order dated 15th October, 2020 in a title suit filed by the appellant against the finance company being Title Suit No. 835 of 2020 in which the plaintiff filed an application for injunction restraining the defendant, their men and agents from dealing with, encumbering and/or selling out the motor vehicle from creating any third party interest over the said vehicle.

Learned trial Judge granted a conditional interim order restraining the defendant/finance company from parting with possession of the vehicle in question upon payment of Rs.2,00,000/-.

Admittedly, as on the date of re-possession installments have not been paid in terms of the hire purchase agreement. The conditional order as it stands does not call for any interference, although at the time of hearing of the appeal, learned counsel for the appellant

has raised an issue for the vehicle that it has been unauthorizedly repossessed.

This matter is required to be heard by the interlocutory bench while deciding the application for injunction.

In view of the fact that admittedly 32 cheques were bounced and a sum of rupees, more than one lakh was due and payable at the time of re-possession, we do not find any infirmity in conditional order passed by the trial Judge on 15th October, 2020.

Other issues are not required to be decided as it has to be decided after the affidavits are exchanged.

Accordingly, the appeal and the application are disposed of without interfering with the order passed by the learned trial Judge.

There shall, however, be no order as to costs.

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

(Subhasis Dasgupta, J.)

(Soumen Sen, J.)