

30.03.2022
SL No.35
Court No.8
(gc)

FMA 253 of 2022

**Gaffar Molla
Vs.
Magma Fincap Limited.**

(Via Video Conference)

Ms. Soni Ojha
Ms. Sambrita B. Chatterjee,
...for the Respondent.

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant. The appellant was also not represented on the earlier occasion.

The appeal is arising out of an order dated 22nd December, 2021. The plaintiff claims to have purchased a vehicle under Hire Purchase Agreement from the defendant Finance Company. Due to Covid-19 Pandemic Situation, the plaintiff could not pay the instalments in time. It was submitted that the respondent was trying to forcibly take possession of the vehicle.

Accordingly, the plaintiff filed a suit for declaration and injunction. In the injunction application, the impugned order was passed.

On such consideration, the learned Trial Judge passed an order restraining the respondent, their men, agents and employees etc. from taking possession of the vehicle without due process of law till 21st January, 2022 subject to the condition that the plaintiff shall pay the

admitted monthly instalment to the defendant till further order. Having regard to the terms and conditions of the Hire Purchase Agreement and the obligation of the appellant to make payment of instalment, we are of the view that the learned Trial Judge has sufficiently protected the interest of the appellant as the appellant cannot continue to enjoy the vehicle without discharging his liability to pay the instalment.

The learned Trial Judge taking into consideration the Covid situation has for the time being directed the plaintiff to pay the admitted monthly instalments to the defendant.

On such consideration, we do not find any reason to interfere with the order impugned.

Moreover, the impugned order was operative till 21st January, 2022, no further order is on record since then.

Accordingly, the appeal being FMA 253 of 2022 stands dismissed.

However, there shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)