

18.02.2022
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Sl. No. 02
Ct. No. 05

WPA 2070 of 2022
With
IA NO: CAN/1/2022

[Via Video Conference]

Mahindra Electric Mobility Limited & Ors.
-Versus-
The State of West Bengal & Ors.

Mr. Ranjan Bachawat
Mr. Rudraman Bhattacharyya
Mr. Surojit Dasgupta
Mr. Meghjit Mukherjee
Mr. Vidhyaupadhyay

..... for the petitioners

Mr. Kanishk Sinha

..... Applicant (in-person)

Mr. Pantu deb Roy
Mr. Pannalal Bandopadhyay

... for the State

In Re: CAN 01 of 2022

This is an application for impleading the applicant as a respondent in the writ petition and for recalling and clarifying an order passed by this Court on 16th February, 2022 in WPA 2070 of 2022.

According to the applicant appearing in-person, the writ petition did not disclose an order passed by a learned Single Judge of this Court by which an order of injunction passed by the Court on 17th June, 2015 in G.A. 3378 of 2014 was revived by a subsequent order of the learned Single Judge dated 27th August, 2018. The applicant also places

an order passed by another learned Single Judge of this Court on 12th March, 2020 in W.P No. 1581 (w) of 2019 in which the applicant challenged the vires of Section 64 of the Patents Act and the learned Single Judge was pleased to dispose of the writ petition giving liberty to the parties in the infringement suit to take all points of law before the Court. The applicant also places an order of the Supreme Court dated 12th January, 2021 by which a Special Leave Petition from the Learned Alipore Court order was dismissed.

Learned counsel appearing for the writ petitioner in whose favour the order of 16th February, 2022 was passed, submits that the petitioner was not a party to the proceedings before the learned Alipore Court or in the infringement suit filed by the applicant in this Court.

Upon hearing learned counsel, this Court is of the view that since the order of injunction passed by the learned Single Judge on 17th June, 2015 in G.A. 3378 of 2014 and the order vacating such injunction dated 18th July, 2018 in G.A. 2786 of 2017 was shown to the Court, there is no reason why the subsequent order by which the order of injunction was revived by the learned Single Judge on 27th August, 2018 was not placed before the Court. The

array of counsel in the order dated 18th July, 2018 is the same as those in the order of 27th August, 2018 so it is inconceivable that the writ petitioner was not aware of the order dated 27th August, 2018 at the time of placing the facts in the writ petition. It is also not believable that the writ petitioner was equally unaware of the order of the Supreme Court which dismissed the SLP from the order of the learned Alipore Court. The contention that the writ petitioner was not a party to the proceedings before the learned Single Judge in the infringement suits is not acceptable simply because the other two orders of the learned Single Judge were placed before the Court. This Court is not satisfied with the assistance received on the date on which the writ petition was disposed of by the order dated 16th February, 2022.

Although, it appears from the order dated 16th February, 2022 that this Court did not disturb the order passed by the learned Alipore Court and the subject matter in T.S. No. 27 of 2018 and directed the registering authority to grant registration of the petitioner's battery operated e-vehicles subject to the condition that the petitioner's e-vehicles occupy different and distinctive category from the subject matter of the order passed by the learned Alipore Court, the observations in the order are required to

be revisited in light of the facts shown to the Court today.

In view of the above reasons, the order dated 16th February, 2022 is modified to the extent of the observations contained therein with regard to the order of injunction passed by the learned Judge in C.S. 388 of 2014 being vacated by a Judgment and order dated 18th July, 2018. The direction passed on the registering authority is consequently modified to the extent that the registering authority shall be at liberty to consider all the relevant material with regard to the pending proceedings in T.S. No. 27 of 2018 at the time of registration of the petitioner's e-vehicles.

CAN 1 of 2022 is accordingly disposed of in terms of prayer (b) as indicated above.

(Moushumi Bhattacharya, J.)