

8 02.5.2022
Sc Ct. no.8

FMA 407 OF 2022

Basir Gharami

Vs.

Cholamandalam Investment & Finance
Company Limited

Ms. Tutul Das Singh
Ms. Poonam Sett
Mr. Ranjit Singh.

.... For the Respondent

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant.

We have gone through the impugned order as well as the Memorandum of Appeal. It appears that the appellant could not pay EMIs in time due to pandemic situation. The learned trial court in the impugned order has restrained the defendant/respondent from taking possession of the vehicle without due course of law till 2nd March, 2022 subject to the condition that the plaintiff/appellant shall pay the admitted EMIs to the defendant/respondent till further order.

The inability to pay the amount is required to be brought to the notice of the learned trial court and the learned trial court has to satisfy itself for the *bona fide* of such claim after hearing the respondent.

In our view, the trial court has correctly exercised its discretion and passed the conditional order for

enjoyment of the vehicle in question. Moreover, the said interim order was till 2nd March, 2022.

The learned counsel for the respondent appears and submits that the admitted monthly instalments have not been paid. Moreover, the vehicle is still in possession of the appellant.

Under such situation, we do not find any reason to interfere with the order impugned.

Accordingly, the appeal is dismissed. However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Sugato Majumdar, J.)

(Soumen Sen, J.)