

24. 21.06.2022
Ct. No.08
Tanmoy

F.M.A. 2830 of 2015

**Ashim Chatterjee
-Versus-
Shriram Transport Finance Company Ltd.**

None of the parties are represented even in the second call.

The appeal is arising out of an order dated January 14, 2015 by which the defendant was restrained by an *ad interim* order of injunction from alienating or disposing or encumbering the vehicle bearing registration No. WB-15A-5443 without due process of law till January 22, 2015.

It further appears that an application under Sections 5 and 8 of the Arbitration and Conciliation Act was filed and the said application was fixed for hearing on January 22, 2015. The appellant has taken a stand before the learned trial Court that the appellant is ready and willing to pay the remaining balance amount forthwith and accordingly, the learned trial Court directed the appellant to pay the balance amount within seven days.

The learned trial Court appears to have not granted extension to deposit the amount in view of the pendency of the application under Sections 5 and 8 of the Arbitration and Conciliation Act. If the disputes are

arbitral then certainly, the learned trial Court cannot proceed with the matter. On such consideration, we do not find any reason to interfere with the order dated January 14, 2015. We further record that even on the earlier occasion, none of the parties had appeared and a co-ordinate Bench had directed listing of this matter on July 5, 2021 with the warning, “Last Chance”.

For the reasons recorded above, we do not find any reason to interfere with the order under challenge. The appeal being F.M.A. 2830 of 2015 accordingly stands dismissed.

However, there shall be no order as to costs.

Let urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)