

11.02.2022
SL No.7
Court No.8
(gc)

FMAT 797 of 2015
With
CAN 1 of 2015
(Old No: CAN 7555 of 2015)
with
CAN 2 of 2015
(Old No: CAN 7751 of 2015)

United Bank of India
Vs.
Bitesh Hazra

(Via Video Conference)

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant even in the second call.

Re: CAN 1 of 2015
(Old No: CAN 7555 of 2015)

We have perused the application for condonation of delay. There is a delay of 5 days in preferring the memorandum of appeal. We are satisfied with the explanations offered in the application for condonation of delay for not being able to prefer the appeal within the period of limitation.

The application for condonation of delay being CAN 7555 of 2015, accordingly, stands disposed of.

The appeal is arising out of an order dated 19th June, 2015 passed by the learned Judge, 5th Bench, City Civil Court at Calcutta in connection with an application filed by the plaintiff for declaration and permanent injunction

restraining the appellant from taking possession of the vehicle financed by the appellant.

We have perused the order under appeal. It appears that the matter was made returnable on 20th July, 2015. The Trial Court granted an interim relief requiring the appellant to produce statement of accounts of the plaintiff for the purpose of satisfying whether there has been any default on the part of the plaintiff for which the appellant threatened to take possession of the hypothecated vehicle.

We do not find any infirmity in the order passed by the Trial Court. However, in the event an application is still pending, the learned Judge, 5th Bench, City Civil Court at Calcutta shall dispose of the application at the earliest without granting any adjournment to either of the parties. We make it clear that the observation made by us shall not influence the learned Trial Judge in deciding the matter on merits as at this stage we do not have full facts including the statement of accounts and the claim of the plaintiff has to be decided on the basis of the hypothecation agreement and the statement of accounts in relation to the said agreement.

With the aforesaid observation, the appeal being FMAT 797 of 2015 and the application being CAN 2 of 2015 (Old No: CAN 7751 of 2015) stand disposed of.

The learned Registrar Administration (L&OM) is directed to ensure the communication of this order to the

learned Judge, 5th Bench, City Civil Court at Calcutta for taking necessary steps.

In view of the fact that the appellant is not represented, the department is directed to serve a copy of this order to the appellant Bank at 24, Park Street, Kolkata –700 016 and also at Ramniwas Nath, Subhas Pally, Kolkata – 711 224.

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.)