

Item-3. 12-12-2022

FMAT 457 of 2022
CAN 1 of 2022

sg Ct. 8

Promod Singh & Ors.
Versus
HDB Financial Services Ltd. & Anr.

Md. Nauroz Rahber, Adv.
Mr. Muhammad Jawwod, Adv.
Ms. Reshmi Khatoon, Adv.
...for the appellants

Ms. Tutul Das, Adv.
Mr. Ranjit Singh, Adv.
Mr. S. Chakrabarty, Adv.
...for the respondents

The appeal and the application have been assigned by the Hon'ble the Chief Justice on 8th December, 2022 to the Bench presided over by one of us (Soumen Sen, J.) and the matter has been placed before us today.

We have heard the learned Counsel for the parties.

There is a delay of 23 days in preferring the appeal.

The department has reported that no application for condonation of delay has been filed. On an oral prayer for condonation of delay substantiated by arguments made in support of condonation we propose to decide such prayer without a formal application.

Sufficient cause being shown for not being able to present the memorandum of appeal within the statutory period, the delay is condoned.

The learned Counsel for the respondents submits that the copy of the application has not been served upon her. However, a copy of the application has been made over to the learned Counsel representing the respondents in Court today.

The dispute arising out of a hire purchase agreement. The learned Counsel for the appellants submits that due to an order passed by the Hon'ble Delhi High Court in a dispute between the partners of M/s. Sanrachna Infra Projects, there is an admitted default in making payment of the instalments.

The learned Counsel for the Finance Company, however, submits that she is not aware of any such proceeding and in any event, the payments are not connected with any dispute that the partners may have between themselves.

We fully agree with the submission made by the Finance Company.

The dispute, inter se, between the partners, cannot stand in the way in discharging their obligations under the hire purchase agreement.

The learned Counsel for the appellants have assailed that a sum of Rs.3,00,000/- (approximately) would be due and payable under the higher purchase agreement.

The learned Counsel for the respondents due to lack of instruction could not make any definite submission with regard to amounts due under the higher purchase agreement.

On the basis of the submission made on behalf of the appellants we disposed of the appeal and the application by directing appellants to pay a sum of Rs.3,00,000/- on or before 7th January, 2023, in default, the order passed by the learned Trial Judge shall revive.

Till such time, the order under appeal shall remain stayed, subject to put in the deficit court fees in course of the day, which shall be duly communicated to the learned Advocate representing

the respondent.

The appeal and the connected application are, accordingly, disposed of. However, there shall be no order as to costs.

The acceptance of the said amount is without prejudice to the rights and contention of the plaintiffs.

(Uday Kumar, J.)

(Soumen Sen, J.)