

FMAT 84 of 2023
with
IA No. CAN 1 of 2023
with
IA No. CAN 2 of 2023

(Tata Motors Finance Ltd. Vs. Jagadish Mondal)

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh

..... For the Appellant

Mr. Shyamal Chakraborty

..... For the Respondent

Affidavit-of-service filed by the appellant is taken on record.

This application has been taken out praying for condonation of delay in preferring the appeal.

Upon hearing the learned advocates appearing for the respective parties and upon considering the materials on record placed before us, we are satisfied with the explanation given towards the delay in preferring the appeal.

Accordingly, the delay is condoned and the application being IA No. CAN 1 of 2023 is disposed of.

The appellant has assailed the order no. 2 dated 18th January, 2023 passed by the learned Judge, Bench- XIII, City Civil Court, Calcutta in Title Suit No. 120 of 2023 whereby the learned Court below by passing an *ad-interim* order of injunction restrained the appellant and its men from seizing and/or interfering with the peaceful running and possession of the vehicle in question

bearing registration no. WB-41J-9257, without due process of law, till the next date fixed, subject to the condition that the plaintiff will go on depositing Rs.12,000/- in the loan account of the plaintiff till the liquidation of the loan failing which the ad interim order of injunction shall automatically stand vacated.

Mr. Ganguly, learned advocate appearing for the appellant submits that the respondent availed of a credit facility extended to him by the appellant to enable him to purchase the vehicle by executing a hire-purchase agreement. He arduously contends that the respondent has failed to pay the instalments as agreed upon and suppressing this material fact, the respondent instituted the suit before the learned Court below taking a plea that he was forced to put his signatures on some blank documents and the appellant has perpetrated fraud upon him. He submits that even the order impugned herein, which is a conditional order one, has not being complied with by the respondent and no payment is being made by him in terms of that order. He submits that the hire-purchase agreement contained one arbitration clause and hence, the matter was referred to arbitration and even the award has been passed. He contends that bringing all these facts to the notice of the learned court below an application under Or. 7 Rule 11 CPC has been taken out but the said application has not been heard and disposed of. He submits that direction may be given

upon the learned Court below to dispose of the application taken out by the appellant.

Mr. Chakraborty, learned advocate appearing for the respondent denies and disputes the contentions canvassed by Mr. Ganguly. However, he accepts the proposal given by Mr. Ganguly to the effect that the learned Court below may be directed to dispose of the applications taken out by the appellant.

Having heard such submissions of the respective parties and taking note of subsequent events, we direct the learned Court below to dispose of the applications taken out by the appellant as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

The *ad-interim* order of injunction impugned in the present appeal is not interfered with.

Accordingly, the appeal and the application being CAN 02 of 2023 are disposed of.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)