

07.08.2023
Court No. 19
Item No.6
CP

C.O. 1258 of 2021
Cholamandalam Investment & Finance
Company Limited
Vs.
Sekh Badiul Jamal

Mr. Supratic Roy
Mr. S. Bhattejee
Mr. P. K. Srivastava

...for the petitioner.

Despite service, none appears on behalf of the opposite party.

This court does not find any reason to interfere with the order impugned before this court. The contention of the petitioner that an application under Section 5 of the Arbitration and Conciliation Act has been pending adjudication in Title Suit No. 1216 of 2019, was already addressed by a learned Judge of this court by an order dated August 22, 2016 in C.O. 2773 of 2016.

Moreover, it appears that in C.O. 333 of 2020 filed in connection with Title Suit No. 1216 of 2019, the defendant/financier was restrained from disposing of or creating any third party interest in respect of the vehicle in question, till the disposal of an application under Section 151 of the Code of Civil Procedure.

The application under Section 151 of the Code of Civil Procedure was an application for restoration of the vehicle. The trial court was directed to hear the said application, by a Coordinate Bench. It is probably because of the ad interim order passed in this proceeding that the learned court may not have proceeded with the hearing of the application.

Thus, the order dated March 16, 2021 has been already modified by the learned Coordinate Judge and the order dated March 16, 2021 directing return of the vehicle to the borrower has become inoperative in view of the order of the Hon'ble High Court. The order passed in C.O. 333 of 2020, has attained finality.

However, this court is of the view that justice would be sub-served if the revisional application is disposed of with a direction upon the learned Judge, 12th Bench, City Civil Court at Calcutta to dispose of all the pending applications filed in connection with Title Suit No. 1216 of 2019, within a period of three months from the next date fixed, upon granting all parties adequate opportunity to contest the same.

This court does not make any orders with regard to the vehicle which is with the financier and there is already an injunction upon the financier from creating any third party interest in respect

thereof, passed earlier, by a Coordinate Bench of this court.

It also appears that the learned court below had given adequate opportunity to the borrower to pay up the loan amount by instalments. In absence of the borrower such fact is not ascertainable.

However, all parties are at liberty to make necessary submissions and prayers before the learned court below with regard to their respective cases.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)