



C.M.A.Nos.343, 405, 559, 560, 563, 569, 577,
581, 595 & 596 of 2022
and C.M.P.Nos.2370, 2835, 4027, 4028, 4101,
4116, 4205, 4236, 4274 & 4275 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.Nos.343, 405, 559, 560, 563, 569, 577, 581, 595 & 596 of
2022
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C.M.A.No.343 of 2022

K.Afsal Rahman

... Appellant

Versus

Sundaram Finance Limited,
Rep by its Assistant General Manager (Legal),
21, Patullos Road,
Chennai – 600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 37(1) of the Arbitration and Conciliation Act, against the order dated 10.12.2021 passed by the Sole Arbitrator in I.A.No.203 of 2021 in ARB Case No.KB/SF452/2021 permitting the respondent to repossess the vehicle bearing No.LEYLAND 1611, MODEL 2020 bearing Chassis No. MB1PBEHD2LEKF0414 fitted with Engine No.LKEZ400386 Registration No.TN-49-CA-8695.



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For Appellant : Mr.R.Cauveriselvan
For Respondent : Mr.S.Suresh

JUDGMENT

The above appeals have been filed by the borrower, who had availed loan for purchasing vehicles from the 1st respondent/Sundaram Finance Limited under the following circumstances:

a)The appellant had purchased several vehicles in his name by entering into Higher Purchase Agreement from the 1st respondent. Since the appellant had defaulted in payment of loan, the 1st respondent initiated Arbitration proceedings.

b)The 1st respondent also filed interim application in all the proceedings seeking permission to re-possess the vehicles.

c)The Arbitral Tribunal found that the appellant had committed default in re-payment of loan and hence permitted the 1st respondent to take possession of the vehicles through Advocate Commissioner.



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d)Aggrieved by the order of the Arbitral Tribunal, the appellant preferred the present appeals.

2.There is no representation for the appellant when the matter was called on 23.08.2023. Therefore, the cases are listed today under the caption “For Dismissal”.

3.Today, the learned counsel for the appellant appeared and submitted that he has no instruction from his client.

4.Heard the learned counsel for the 1st respondent.

5.Since the appellant is not interested in pursuing the cases, this Court is inclined to pass orders based on the materials available on record.



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6. On perusal of records, it is seen from the order passed by the Arbitral Tribunal that on the application filed by the 1st respondent, the Tribunal had directed the 1st respondent to take possession of the vehicles through Advocate Commissioner and retain the custody of the vehicles with the further direction to the 1st respondent not to sell or use the vehicles without the leave of the Tribunal and posted the cases for further proceedings. At this stage, the appellant filed the instant appeal.

7. It is also seen from the order that the Arbitral Tribunal had passed interim *ex-parte* order and issued notice to the appellant for further proceedings. The applications have not been decided finally. In view of the same, this Court is of the view that in the facts of the instant case the appeals are pre-mature. It is also stated that pursuant to the orders passed by the Arbitral Tribunal, the 1st respondent has re-possessed the vehicles. It is for the Arbitral Tribunal to consider the prayer and decide the applications finally after issuing notice.



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8. In the above circumstances, this Court is of the view that the instant appeals cannot be entertained at this stage and the same are liable to be dismissed.

9.This Court also records the fact that the learned Government Advocate brought to the notice of this Court that the appellant is an accused for the offence punishable under Sections 406 and 420 IPC on the file of the District Crime Branch in Crime No.78 of 2021 and that the properties of the appellant including his vehicles are sought to be attached by the Government. This Court had directed the learned Government Advocate to take instruction on the action taken by the Investigating Officer as regards seizure of vehicles of the appellant. On instruction, the learned Government Advocate submitted that the vehicles which are in possession with the 1st respondent have been seized by the Investigating Officer. The above facts are recorded without expressing any opinion on the merits of the claim made by the 1st respondent over the vehicles. That issue has to be adjudicated by the appropriate forum.



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SUNDER MOHAN, J.

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10.With the above observations, these appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.08.2023

rst

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To:
The Section Officer,
VR Section,
High Court, Madras.

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