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CMA No. 1552 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1552 of 2023
and

C.M.P. Nos. 15700 & 15701 of 2023

1.Mrs. Tamilarasi.P

2.Mr. Umapathy

... Appellants

Versus

M/s.APC Finance (India) Private Limited,
Gaurav vara,
#32, New Avadi Road,
Kilpauk Garden, Kilpauk,
Chennai – 600010.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 37(2)(b) of the Arbitration & Conciliation Act, 1996 praying to set aside the orders passed by the learned sole arbitrator in M.P. No. 1 of 2022 in A.C.P.(CNICA DFL) No.13901/7 of 2022 dated 04.04.2023.

For Appellants : Mr. S.I. Sharukumar.

For Respondent : Mr. T.R. Ravi.

J U D G M E N T

The above appeal has been filed challenging the order passed by the Arbitrator permitting the respondent herein to take possession of the



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seized vehicle.

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2.The first appellant had taken a loan of Rs.58,00,000/- for purchase of a Jaguar-Pace 2.0d bearing Registration No.TN 10 BP 2005. Admittedly, the first appellant had defaulted in payment. The learned arbitrator in an application filed under Section 17 of the Arbitration and Conciliation Act permitted the respondent herein to take possession of the hypothecated vehicle.

3.The learned counsel for the appellant submitted that after taking possession of the hypothecated vehicles, the respondent had undervalued the vehicles and sold it. Therefore, their claim for the balance sum due to them is not correct.

4.The learned counsel for the respondent per contra submitted that since the respondent had taken possession of the hypothecated vehicle and sold it in terms of loan cum hypothecation agreement after due intimation to the appellants. Hence nothing survives in the instant appeal and prayed for dismissal.

5. This Court finds that admittedly the respondent had taken



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possession of the hypothecated vehicle and sold it for a consideration of Rs.45,00,000/-. It is a case of the appellant that the vehicle would have fetched more value and the respondent had sold it at a lower value.

6.Be that as it may. In view of the above stated facts, since the vehicle has already been sold, nothing survives in the above appeal. However, if the appellants are aggrieved by the fact that the vehicle was under valued and sold, it is open to them to establish the said fact before the learned Arbitrator. It is needless to say that the learned Arbitrator would consider the said plea while adjudicating the claim.

7.With the above observations, this Civil Miscellaneous appeal is dismissed. No costs. Consequently, the connected Miscellaneous petitions are closed.

21.08.2023
(2/2)

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J

ay

To

1. The Arbitration Tribunal constituted by
CNICA Sole Arbitrator,
Chennai.

2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.

C.M.A. No. 1552 of 2023
and
C.M.P. Nos. 15700 & 15701 of 2023



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