

Item No.12

10.06.2024
Ct-14

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14942 of 2024
Pratap Saha

v.

The State of West Bengal & Ors.

Mr. Supriyo Chattopadhyay
Mr. Aditya Sarkar
... for the petitioner.

Mr. Vimal Kumar Shahi, Ld. AGP.
Mr. Monsur Alam
... for the State.

The petitioner is aggrieved by the act of IDFC in forcibly taking possession of the vehicle being TATA ACE WB-25-L-4840 registered in the name of P.K.P Transportation.

The petitioner relies upon the order passed by the learned 6th Bench, City Civil Court at Calcutta being Title Suit No. 2338 of 2023 wherein an order of injunction was passed restraining the defendant/Finance Company from taking possession of the subject vehicle without due process of law subject to payment of current EMI.

It has been submitted that in violation of the order passed by the learned Court, the Finance Company forcibly took possession of the vehicle. Complaint lodged before the police against such action has not been acted upon.

Learned advocate representing the police relies upon the instruction forwarded by the Bhadreswar

Police Station and Domjur Police Station wherefrom it appears that the respondent Finance Company took steps pursuant to the order dated April 18, 2024 passed by the learned 2nd Bench, City Civil Court at Calcutta in Misc. Case No. 1797 of 2024 wherein the petitioner was given liberty to initiate arbitral proceeding within the time stipulated under sub-section 2, Section 9 of the Arbitration and Conciliation Act.

The Court further directed that if the petitioner takes possession of the vehicle from the receiver, it shall not sell the same until and unless the petitioner is authorized to do so either by the Court or by the learned Arbitrator.

Learned advocate representing the petitioner submits that his client is not aware of any proceeding initiated under the Arbitration and Conciliation Act.

It appears from the submissions made on behalf of the parties that the matter relates to alleged non-payment of the monthly installment of the vehicle which was obtained on taking loan from the respondent Finance Company. The police hardly has role to play in the matter. It will be open for the petitioner to approach the competent forum for relief.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

Copy of the instruction forwarded by the Bhadreswar Police Station and Domjur Police Station be retained with the records.

Copy of the same has been handed over to the learned advocate representing the petitioner in Court today.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)