



C.M.A.No.3581 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI,J.**

C.M.A.No.3581 of 2021

and C.M.P.No.20907 of 2021

1.Ms.Byramma.H.R

2.Mr.Srinivasa.N.C

...Appellants

Vs.

1.M/s.TVS Credit Services Limited,
Represented by its Authorised Signatory,
Registered Office at
Jayalakshmi Estates,
N.No.29, (O.No.8), Haddows Road,
Nungambakkam, Chennai – 600 006

2. Mr.G.B.Bore Gowda

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 37 of the Arbitration and Conciliation Act, 1996 read with Order 43 Rule 1 of CPC,



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against the Interim Order dated 06.08.2021 made in A.C.P.No.610 of 2021 on the file of the Sole Arbitrator Shri.K.Moorthy, M.A.M.L, Advocate, Chennai.

For Appellants : Mr.C.Prabakaran

For Respondents :

For 1st Respondent : Mr.Kandeep Shravan

for M/s Pass Associates

For 2nd Respondent : Not Ready in Notice

JUDGMENT

This Civil Miscellaneous Appeal is preferred against the interim order dated 06.08.2021 made in A.C.P.No.610 of 2021 on the ground that an ex-parte interim order of recovery of vehicle was ordered without prima facie satisfaction that the appellant would alienate the vehicle, which is the subject matter of the arbitration.

2. It is submitted that the Arbitrator ought to have considered the fact that the manner of installments paid by the claimants from 07.10.2018 to 31.12.2020 to prove that the claimants are regular in paying the instalments. Therefore, no ex-parte order of interim attachment warranted in this case. It is



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further submitted that the appellants were not aware of appointment of the Arbitral Tribunal and no notice was issued to the appellants. Hence, the interim order passed by the Arbitral Tribunal for recovery of the vehicle is liable to be set aside. The further submission is that the learned Arbitrator ought not to have ordered for the sale of vehicle after recovery without notice to the appellant, which would cause irreparable hardship to the appellants. It is also submitted that the appellants are ready to clear the over due amount and continue to pay the remaining installments as per the terms of the contract. Hence, the order passed by the sole Arbitrator in A.C.P.No.610 dated 06.08.2021 is liable to be set aside.

3. At that time of admission, this Court has passed the following order while granting interim stay, which is extracted here under:-

“4. Therefore, the petitioner makes out the case for interference. There shall be an order of interim stay of the order of the Learned Arbitrator dated 06.08.2021, made in ACP (TVS).No.610 of 2021, until further orders, however, on two conditions, i) the petitioner shall not alienate or tamper the vehicle in any manner whatsoever and should maintain the



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vehicle in good condition. ii) the petitioner shall deposit a sum of Rs.5 Lakhs (Rupees Five Lakhs only), with the respondent, on or before 20.01.2022.”

The said order of this Court has been complied with.

4. The learned counsel appearing for the appellants would submit that since the management of the respondent has been changed to new company, the respondent no longer has any claim against the appellants. In view of the same, the appellants may be permitted to file an amendment application to amend and substitute the new company as stated by the respondents enabling the appellants to prosecute the appeal effectively and the appellants are ready to settle the matter before this Court. Hence prays for suitable orders.

5. On the side of the 1st respondent, the leaned counsel would submit that the proceedings before the Sole Arbitrator was withdrawn by the 1st respondent and liberty was given to file the claim afresh and therefore, nothing survives in the present appeal as it becomes infructuous.

6. Heard both sides. Records perused.



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7. It is reported that the 1st respondent has withdrawn the proceedings before the Arbitrator and the appeal has been filed against the interim order of the sole Arbitrator dated 06.08.2021 and therefore nothing survives in this appeal for consideration. Therefore, the appeal become infructuous.

8. In view of the submission, the appeal is dismissed as infructuous with liberty to the 1st respondent to file the claim afresh. No costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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K.GOVINDARAJAN THILAKAVADI, J.

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To

1. The Arbitrator,
CNICA Arbitration Center,
4t Floor, North Wing, Armenian street,
Chennai.

2. The Section Officer,
VR Section,
High Court, Madras.

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