

17.07.2025
Item No.07
Court No.37.
S. De

F.M.A.T. (ARBAWARD) 28 of 2025
With
I.A. No. CAN/1/2025

Avtar Singh.
Vs
Electronica Finanance Limited.

Mr. Sailendra Kumar Tiwari,
Mr. Sariful Haque,
Ms. Soumoyadipa Kanu,
Ms. Muskan Jalan, ...for the appellant.

Mr. Sakya Sen, Sr. Adv.,
Mr. Sayan Ganguly,
Mr. Sameet Choudhury,
Ms. Sormi Dutta, ...for the respondent.

Dictated by Arijit Banerjee, J.

1. By consent of the parties, the appeal and the connected application are taken up together for hearing.
2. This appeal is directed against an order dated April 25, 2025, passed by the learned 13th Bench, City Civil Court, Calcutta, on an application under Section 9 of the Arbitration and Conciliation Act, filed by the respondent herein being Misc. Case No. 2952 of 2025.
3. It appears that the appellant herein obtained financial accommodation in connection with a hire purchase agreement for purchase of certain equipment. Apparently, instalments fell in arrear. Accordingly, the respondent/finance

company approached the learned Trial Court under Section 9 of the 1996 Act in view of there being an arbitration clause in the hire purchase agreement for resolution of disputes and differences between the parties.

4. The learned Trial Judge noting the submission made on behalf of the finance company that the appellant herein is trying to create third party interest in respect of the subject equipment/machines, appointed a learned advocate of the City Civil Court as receiver and passed the following direction :

“The Receiver is authorized to take all necessary steps in accordance with law, including appointment of agent. The Police authority of the nearby Police Stations or the Superintendent of Police, under the jurisdiction of whom the machines in question is intercepted, would render assistance as is required lawfully by the Receiver, if at all necessary, who shall submit the Report before this Court.

So long the machines in question shall remain in the custody of the Receiver or her authorized agent and she shall remain responsible for any loss and damage, if any, caused to the said machines in question.

*The fee of the Receiver is fixed at
Rs.6,000/-.*

The Petitioner is directed to make payment to the Receiver directly and submit the receipt with the Court.

Issue writ accordingly on payment of the Receiver's fee.

The Petitioner is directed to submit papers by the next date fixed, showing that the Arbitration proceeding has commenced, in default, the above Order shall stand vacated.

Issue notice upon the Respondents, to show cause within 15 (fifteen) days from the date of receipt thereof.

Let a copy of this Order along with Writ be handed over to the Ld. Receiver for information and necessary compliance.”

5. Being aggrieved, the respondent in the Section 9 application is before us by way of this appeal.
6. Mr. Tiwari, learned advocate representing the appellant says that the receiver, with police force has taken actual physical possession of the concerned equipment which has stopped the appellant's business altogether. He also says that the receiver has taken possession of other machines which were not financed by the respondent. The finance company is in the process of selling the equipment/machinery of which possession has been taken by the

receiver. This will cause irreparable prejudice to the appellant. Though there was some default in payment of instalment in the months of January and February, 2025, thereafter substantial sums have been paid by the appellant to the respondent.

7. Mr. Sen, learned senior counsel representing the respondent/finance company says that the receiver could not locate many of the equipment/machinery which she was directed to take possession of and the appellant extended no co-operation in that regard.
8. Submission made on behalf of the respective parties are disputed by the respective opposite parties.
9. We are of the view that the appellant should approach the learned Single Judge and ventilate his grievance. However, till the appellant gets such an opportunity, we direct the respondent not to sell or create third party interest in respect of the subject machinery/equipment. This interim protection granted to the appellant will continue for a period of one month from date and will be subject to any further order that may be passed by the learned Trial Court.
10. Likewise the appellant shall also not deal with or create third party interest in respect of

the machinery and equipment which have been financed by the respondent company till further orders of the learned Trial Court.

11. If the appellant asks for a copy of the minutes of the meeting at which the receiver took possession of the concerned machinery, copy of such minutes will be forthwith supplied to the appellant.

12. FMAT (ARBAWARD) 28 of 2025 is disposed of along with the application being I.A. No. CAN 1 of 2025.

13. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Om Narayan Rai, J.)