

26.11.2025
Court No.13
Item No.3
AP

**FMAT 386 of 2025
With
CAN 1 of 2025**

**Mrinal Ghosh and Anr.
Vs.
Cholamandalam Investment and
Finance Corporation Limited and Anr.**

Ms. Shabana Hasin
Mr. Prantick Ghosh
Ms. Shravani Ghosh

.... For the Appellants.

Mr. Ranjit Singh
Mrs. Tutul Das Singh
Mr. Amar Singh
Mr. Pranit Biswas
Ms. S. Mukherjee

.... For the Respondent/Cholamandalam
Investment and Finance Corporation Ltd.

1. A report of the Registry of the City Civil Court dated 1st November, 2025 placed before this Court by the Registry of this Court.

2. It appears from the records that the Vacation Bench of the City Civil Court taking the matters pertaining to Bench XIII was not intimated by the Registry of the City Civil Court that a caveat has been lodged by the appellants/borrowers. After serving notice on the respondent/applicant in the Trial Court, necessary documents were filed with the Registry of the City Civil Court by the appellant caveator.

3. Be that as it may, given the fact that a caveat was lodged by the appellants before the City Civil Court, the

registry of such Court could not have marked “No Caveat Filed” on the records. The appellants despite diligently taken steps to lodge a caveat before the Court have been deprived of an opportunity of being heard by the City Civil Court in the application filed by the respondent/applicant/Finance Company under Section 9 of the Arbitration and Conciliation Act, 1996. Orders under Order 39 Rule 1 and 2 and Order 40 have been made ex parte by the XIII Bench of the City Civil Court.

4. In that view of the matter, the impugned order dated 28th May, 2025 passed by the City Civil Court in Misc Case No.6284 of 2025 shall be set aside.

5. The Truck in question bearing registration No.WB25L2929 shall be returned by the Receiver to the appellants forthwith without any parking charges.

6. The appellants/opposite parties in the application under Section 9 shall be entitled to use a written objection to the same within a period of three weeks from date. Reply, if any, be filed within a period of one week thereafter.

7. The Bench XIII of the City Civil Court shall fix a date in the matter four weeks hence and pass order in accordance with law after hearing the parties.

8. In default of return of the vehicle by the receiver to the appellants, the application under Section 9 as

well as its entire claim against the appellants shall stand dismissed.

9. With the aforesaid observations, the instant appeal is disposed of. Consequently, connected application being CAN 1 of 2025 is also disposed of.

10. There shall be no order as to costs.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)