

AD-13
Ct No.16
15.01.2025
TN

FMAT 440 of 2024
IA No: CAN 1 of 2024

Niyamul Hossain Molla
Vs.
Shriram Finance Limited

Mr. Asit Kr. Bhattacharya

....for the appellant

1. The present appeal has been preferred against an order whereby the appellant's prayer for ad-interim injunction has been refused. The case made out by the appellant is that the appellant obtained a loan for purchase of a vehicle and has been running the said vehicle. The loan was repayable in 74 equal monthly instalments of Rs.96,000/- each. Although a major portion of the loan has already been repaid, it is contended that the respondent is seeking to forcibly take possession of the vehicle. Learned counsel for the appellant submits that such forcible seizure of the vehicle is not permissible in law.
2. The learned Trial Judge found that the plaintiff has not annexed statement of loan account to show his conduct in payment of the loan and in absence of such statement, no ad-interim order of injunction can be passed without hearing the adversary.
3. We do not find any fault with such view, since injunction is an equitable relief and the plaintiff has to come with clean hands to show how much of the loan

has been repaid and in what manner. That apart, we are not apprised of the conditions contained in the loan agreement and as to whether the respondent has a right of repossession of the vehicle as per such agreement in the event instalments are not paid in time. Hence, it would be premature at this stage for this court to substitute its views for that of the learned Trial Judge.

4. Thus, we do not find any illegality in the impugned order.
5. Accordingly, FMAT 440 of 2024, and consequentially CAN 1 of 2024, are dismissed without any order as to costs.
6. However, it is made clear that the observations made above and in the impugned order are tentative in nature, arrived at for the limited purpose of considering the ad-interim prayer of injunction only and the learned Trial Judge, at all further stages of the suit and the injunction application, shall independently decide the merits of the matter without being unnecessarily prejudiced or influenced by any of the observations made in our order or in the impugned order.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)