

OCD-5

APOT/116/2025
WITH
AP-COM/126/2025
IA NO. GA-COM/1/2025

IN THE HIGH COURT AT CALCUTTA
Commercial Appellate Division
ORIGINAL SIDE

M/S. CHOLAMANDALAM INVESTMENT
AND FINANCE COMPANY LIMITED
-VS-
SWARAJ KUMAR ADHIKARY AND ANR.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE OM NARAYAN RAI
Date : 14th May, 2025.

Appearance:
Ms. Arunima Lala Sengupta, Adv.
Mr. Ranjit Singh, Adv.
Mr. Amar Singh, Adv.
Ms. Tutul Das, Adv.
Mr. Pranit Biswas, Adv.
Ms. Talat Nazreen, Adv.,
...for the appellant

Mr. Prantick Ghosh, Adv.
Ms. Shabana Hasin, Adv.
...for the respondents

The Court: This appeal is directed against an order dated March 3, 2025, whereby a Learned Judge of this Court disposed of the appellant's application under Section 9 of the Arbitration and Conciliation Act, 1996,

without passing any order but reserving liberty to the appellant to renew the prayers at the appropriate stage, if necessary.

The appellant says that it has lent and advanced substantial sums of money to the respondents. The vehicle in question has been hypothecated to the appellant. The respondents have defaulted in paying the monthly instalments. The respondents, ignoring the arbitration clause contained in the hypothecation agreement, have instituted a suit before the learned Civil Judge (Junior Division), First Court, Barasat, North 24-Paraganas and has obtained an ex parte interim order restraining the appellant from interfering with the respondents' possession of the hypothecated vehicle excepting following due process of law. The appellant is taking steps to file an application under Sections 5 and 8 of the 1996 Act for reference of the subject-matter of the suit to arbitration. In the meantime, some interim protection should be granted to the appellant insofar as the hypothecated vehicle is concerned.

Learned advocate for the respondents says that the respondents had no intention of disposing of or alienating or otherwise dealing with the vehicle in question. They are plying the vehicle commercially.

In view of the aforesaid, we dispose of this appeal being APOT/116/2025 and the connected application being IA No. GA-COM/1/2025, by restraining the respondents from dealing with or disposing of or alienating or creating third party rights in respect of the hypothecated

vehicle in question. This will not prevent the respondents from plying the vehicle in the usual course of business. The proceedings pending before the learned Barasat Court will be decided without being influenced by any observations made in this order.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)

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