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IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction  
ORIGINAL SIDE

AP-COM/1086/2024  
AJEET KUMAR  
VS  
CHOLAMANDALAM INVESTMENT AND FINANCE CO LTD

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : February 27, 2025

Mr. Priyankar Saha, Adv.  
Mr. Satrajeet Sen, Adv.  
Mr. Lalratan Mondal, Adv. ...for petitioner.

Mr. Ranjit Singh, Adv.  
Mr. Amar Singh, Adv.  
Ms. Tutul Das, Adv.  
Mr. Pranit Biswas, Adv. ...for respondent.

The Court :- Perused the account statement filed by the lender/respondent. Although a sum of Rs.3,82,375.40 was due and payable by the petitioner when the vehicle was repossessed by the lender, as per the calculation of the respondent, the amount due is almost Rs.9,50,000/- as of now.

This application for interim measure was filed by the borrower, seeking a mandatory injunction by directing the respondent/lender to deliver the hypothecated vehicle which was seized due to nonpayment of instalments by the borrower.

Considering the balance of convenience and inconvenience of the parties, this court directs as follows :

- a. The vehicle should be returned to the petitioner, so that he can operate the same and run his business;
- b. To secure the dues of the respondent, a sum of Rs.5 lakhs shall be paid by the petitioner to the respondent within four weeks from date.

c. Upon receipt of the said amount, the vehicle shall be returned to the petitioner in good condition;

d. The respondent shall ensure that the vehicle is maintained properly in the interregnum and is in operational condition.

The application is disposed of, giving liberty to the parties to take steps for appointment of an arbitrator. The respondent contends to have invoked arbitration.

It is undertaken by Mr. Saha that, the suit which has been filed shall be immediately withdrawn as the same was mistakenly filed. The respondent shall be handed over information with regard to the withdrawal of the suit, within four weeks from date.

Needless to mention that, other dues which are to be paid in terms of the agreement, shall be paid.

(SHAMPA SARKAR, J.)

pkd.