
(2017) 05 CAL CK 0040
In the Calcutta High Court
Case No : 27 of 2017?(CAN 157 of 2017)

Nirmal Sadhukhan

APPELLANT

Vs

UCO Bank

RESPONDENT

Date of Decision : 17-05-2017

Acts Referred:

Citation : (2017) 05 CAL CK 0040

Hon'ble Judges : Jyotirmay Bhattacharya, Asha Arora

Bench : DIVISION BENCH

Advocate : Asit Kr. Bhattacharya

Final Decision : Disposed off

Judgement

1. In spite of service, none appears on behalf of the respondent-Bank at the time when this application is taken up for hearing.
2. This instant first miscellaneous appeal is directed against an order being No. 12 dated 22nd December, 2016 by which the ad interim order of injunction which was passed in favour of the plaintiff/appellant on 22nd December, 2016, stood vacated.
3. On 26th February, 2016, the following ad interim order of injunction was passed in the said suit:-
4. The defendant, their men and agents are directed not to seize or interfere with the peaceful running and possession of the suit vehicle, bearing registration number WB-25E-6511, without due process of law if the plaintiff pays the monthly EMIs as agreed upon till 28th March, 2016 as vacation intervenes.
5. The said ad interim order of injunction stood vacated on 22nd December, 2016. Hence, the ad interim order of injunction which was passed in the said suit on 26th February, 2016, stood lifted. Once the ad interim order of injunction stood vacated, there was no restriction on the part of the respondent-Bank from taking over possession of the suit vehicle bearing registration number

WB-25E-6511.

6. Mr. Bhattacharya, learned advocate appearing for the appellant in his usual fairness submits before this Court that his client could not pay the monthly instalments towards loan advanced by the Bank-respondent to his client for purchasing the said vehicle regularly.

7. He further submits that his client is ready and willing to pay the dues as on today to the Bank in three monthly equal instalments. He thus, prayed for release of the vehicle on payment of the first instalment.

8. Considering his prayer, we dispose of this appeal by permitting his client to pay all outstanding dues in three equal monthly instalments and first of such instalments will be paid by his client within 7th June, 2017 and the subsequent instalments will be paid within 7th of each following month.

9. It is made clear that on payment of the last instalment, the Bank will release and deliver the said vehicle to the petitioner within seven days from the date of payment of the last instalment by the appellant to the Bank.

10. The respondent-Bank is restrained from transferring and/or selling and/or disposing of and/or creating any third party interest in respect of the said vehicle till the date, fixed for payment of the first instalment by the appellant to the Bank and in the event the appellant goes on paying the instalments regularly in terms of the order passed by this Court, the interim order of injunction will continue till the date, fixed for delivery of the vehicle to the appellant.

11. The appeal is thus, disposed of.

12. Since the appeal is disposed of in the manner as aforesaid, no further order need be passed on the injunction application.

13. The application for injunction being CAN 157 of 2017 is thus, deemed to be disposed of.

14. Urgent Photostat certified copy of this order, if applied for, be supplied to the Learned advocates for the parties immediately.