

GAHC010132342023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/1689/2023

MAINUDDIN

S/O- ISAB ALI, A R/O- VILL- SHILBHETA, P.O. DHARAMTUL, P.S. JAGIROAD,
DIST.- MORIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
TO BE REP. BY THE SECY., MINISTRY OF FINANCE, GOVT. OF INDIA,
NORTH BLOCK, NEW DELHI-1

2:THE MINISTRY OF HOME AFFAIRS
GOVT. OF INDIA
TO BE REP. BY THE HOME SECRETARY
NORTH BLOCK
NEW DELHI

3:THE RESERVE BANK OF INDIA
TO BE REP. BY ITS CHIEF GENERAL MANAGER HAVING ITS REGD. HEAD
QUARTER OFFICE AT 1ST FLOOR
MAIN BUILDING
SHAHID BHAGAT SINGH ROAD
MUMBAI-01

4:THE STATE OF ASSAM
TO BE REP. BY THE COMM. AND SECY.
TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
DISPUR GHY-06

5:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEAD QUARTER
ULUBARI GHY-07

6:THE SUPERINTENDENT OF POLICE
MORIGAON
DIST.- MORIGAON ASSAM

7:THE OFFICER IN-CHARGE
DHARAMTUL P.S.
DIST.- MORIGAON ASSAM

8:THE CATERPILLAR FINANCIAL SERVICES INDIA PRIVATE LIMITED
INDI

For the applicants : Mr. A.R. Bhuyan,
Mr. N.A. Mazarbhuiya, Advocates
For the respondents : Mr. D.J. Das,
Advocate for respondent Nos.1, 2 & 3
Ms. M. Bhattacharjee,
Addl. Senior Govt. Advocate, Assam
For respondent Nos.4,5,6 & 7

– B E F O R E –

HON'BLE THE CHIEF JUSTICE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

31-07-2023

The matter comes up for orders on the interlocutory application filed by the applicant herein seeking condonation of delay of 7 days in preferring the connected writ appeal.

After going through the pleadings of the appellant in the writ appeal and the tenor of the impugned order dated 11.04.2023 passed in WP(C) 965/2023, we had posed a query to the learned counsel for the applicant/appellant on 27.07.2023 to satisfy the Court regarding the maintainability of the appeal in view of the fact that the applicant/appellant has sought for relief against the respondent No.8, which is a private finance company.

Mr. A.R. Bhuyan, learned counsel representing the applicant, urged that the

applicant/appellant had taken a loan to the tune of Rs.19,45,409/- from the respondent No.8 for purchasing a vehicle. Despite paying the instalments, respondent No.8 through its agents was trying to forcibly repossess the vehicle and thus, the applicant/appellant has a valid cause to seek a direction upon the State authorities to protect him against the strong armed tactics of the employees of the respondent No.8.

We have given our thoughtful consideration to the submissions advanced by Mr. Bhuyan and have gone through the impugned order.

On perusal of the observations made by the learned Single Judge in the impugned order dated 11.04.2023, we find that the proceedings for arbitration have already been initiated by the private respondent against the applicant/appellant in the Court at Bengaluru. Learned Single Judge also found that the allegations made by the applicant in the FIR addressed to the Dharamtul Police station and the averments made in the writ petition were bearing a certain degree of contradiction. Further, the respondent No.8 has claimed in the arbitration application that the applicant/appellant herein failed to make payment of the instalments towards repayment of the loan and the outstanding amount on the date of filing of the application was nearly Rs.17,56,318/-.

Thus, we are of the firm opinion that in addition to the fact that the writ petition involves significantly disputed questions of facts, the relief sought therein is against the private entity and hence, the writ petition by itself was not maintainable. As a consequence, we do not find any reason to entertain the instant interlocutory application and the connected writ appeal and hence, the same are rejected.

JUDGE

CHIEF JUSTICE

Comparing Assistant