

(1996) 09 CAL CK 0007

Calcutta High Court

Case No: Civil Order No. 2830 of 1995

Anil Kumar Tiwari

APPELLANT

Vs

M/s. Vehicle Credit Corporation
and Others

RESPONDENT

Date of Decision: Sept. 11, 1996

Hon'ble Judges: Arun Kumar Dutta, J

Bench: Single Bench

Advocate: Narayan Chandra Bhattacharjee and Biswanath Chakraborty, for the Appellant;
Tapan Sil, for the Respondent

Final Decision: Allowed

Judgement

Arun Kumar Dutta J.

1. By this application the Petitioner/ Opposite Party No. 1/Respondent, Financier, has prayed the Court for vacation and/or modification of the interim order passed on 6th December. 1995, which was extended by the subsequent order dated. 18.1.96 passed in the matter, for the reasons stated therein. Upon hearing the submissions of the learned Advocates for both sides and perusal of the materials on record as also the aforesaid two relevant orders passed by this Court. I find that the Court by the order dated 6.12.95 had directed the parties to maintain status quo as regards the possession of the vehicle in question as of date till two weeks after the vacation with liberty to apply for extension of the interim order on the self-same application upon notices to the Respondents. The interim order so passed by the said order appears to have been subsequently contended by the subsequent order dated 18th January, 1996. It is contended by the Petitioner/Opposite Party No. I/Respondent that the Petitioner in the main revisional application had obtained the extension of the Inter fun order passed on 6.12.95 without notice to him in terms of the Court's earlier order dated 6.12.95. The learned Advocate for the Opposite Party in the instant application submits, that with regard to the list published on 18th January, 1996 that the instant matter had appeared for orders (Extension)

suggesting that notice was given to the petitioner herein for extension of the interim order granted on 6.12.95. But mere appearance of the matter in the list of 18th January, 1996, to my judgment does not seem to me to amount to compliance with the Court's relevant order dated 6.12.95, wherein it was specifically directed that the Petitioner was given liberty to apply for extension of the interim order granted thereunder on the self same application on the specific direction that it should be upon notice to the Opposite Parties.

2. From the affidavit-of-service filed by the Opposite Party herein, it would oddly appear that a notice shall was serve upon the Petitioner herein by the letter dated 4.1.96 communicating the court's aforesaid earlier order dated 6.12.95 and sending therewith the copy of the application for condonation of delay as also the instant revisional application. That notice could not clearly be deemed to be a notice seeking extension of the interim order in terms of the Court's aforesaid order dated 6.12.95.

3. With things as they are it clearly appears to me that the Opposite Party had obtained extension of the interim order granted on 6.12.95 on 18.1.96 without notice to the Opposite Parties.

4. That being so, the interim order passed on 6.12.95, which was subsequently extended on 18.1.96 without notice to the Opposite Parties, could not clearly stand any further.

5. In the premises "above, the instant application filed by the Petitioner be allowed and the interim order passed on 6.12.95, subsequently extended by the order dated 18.1.96 be vacated. If any application for urgent Xerox certified copy of this order is sought for by any of the parties, the Department shall cause the same to be supplied at the earliest.