

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17913/2009

(From the judgement and order dated 19/03/2009 in MFA No. 5288/2007 of The HIGH COURT OF KARNATAKA AT BANGALORE)

BANGALORE METROPOLITAN TPT CORPN

Petitioner(s)

VERSUS

M/S. AMARNATH MOTORS OWNER.CO.SOC.L&ORS.

Respondent(s)

(With prayer for interim relief)

(With application for substitution)

Date: 02/08/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner(s)

Mr. R.S. Hegde, Adv.
Mr. Chandra Prakash, Adv.
Mr. Amit Wadhwa, Adv.
Mr. P.P. Singh, Adv.

For Respondent(s)

For RR-3

Mr. Anand Sanjay M. Nuli, Adv.
Mr. Ashok Bannidinni, Adv.
Mr. V.N. Raghupathy, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay in filing the application for substitution is condoned.

The application for substitution is allowed.

The abatement is set aside.

Leave granted.

This appeal is disposed of in terms of the signed order.

(Sukhbir Paul Kaur)
Court Master

(J.P. Sharma)
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6224 OF 2010
(Arising out of S.L.P.(C) No.17913 of 2009)

BANGALORE METROPOLITAN TRANSPORT CORPORATION Appellant(s)

Versus

M/S. AMARNATH MOTORS OWNERS COOPERATIVE SOCIETY LTD. & ORS.

Respondent(s)

O R D E R

Delay in filing the application for substitution is condoned.

The application for substitution is allowed.

The abatement is set aside.

Leave granted.

This Court vide Order dated 7th August, 2009 directed a limited notice with regard to the operative portion of the judgment whereunder the High Court, while dismissing the appeal has observed "it is further made clear that no liberty reserved to the appellant to recover the claim amount determined by the Claims Tribunal from the owner of the offending vehicle".

No one has entered appearance on behalf of the respondents though served.

In our considered opinion, the High Court committed an error in not reserving the liberty to the appellant to recover the claim amount determined by the Claims Tribunal from the owner of the offending vehicle.

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There is no reason as to why the appellant should be prevented from enforcing the contractual terms contained in the agreement entered into between the appellant and the owner of the vehicle under which the vehicles were taken on hire by the appellant.

That portion of the order alone is set aside. However, it is made clear that in case the appellant initiates any such proceedings to recover any amount from the owner of the offending vehicle, the owner shall have all its defence in the matter.

This appeal is accordingly, disposed of.

It is needless to direct that the appellants

shall deposit the decretal amount within four weeks
from today.

.....J.
(B.SUDERSHAN REDDY)

.....J.
(SURINDER SINGH NIJJAR)

New Delhi,
August 02, 2010