

04. 23.02.2021 1. Heard Mr. N. Panda, learned counsel for the Appellant and Mr. B.P.B. Bahali, learned counsel for the Respondent.
2. The Appellant has challenged the order dated 2nd July 2020 (Annexure-2) passed by learned Single Judge in CONTC No.1052 of 2020. The Appellant has prayed for setting aside the impugned order and directing the Respondent to release the vehicle of the Appellant as per the order dated 4th February 2020 passed in W.P.(C) No.3236 of 2020 (Annexure-1).
3. On 4th February 2020, *inter alia*, the following direction is issued in W.P.(C) No.3236 of 2020.

“ Considering the submissions made and on going through the averments taken in the petition as also the documents annexed thereto; this writ application stands disposed of with an observation that in the event the petitioner makes a deposit of Rs.50,000/- (Rupees fifty thousand) with the opposite party no.2 within three weeks hence and files an application for rephasing of the loan amount/refixation of the installments, the same shall be considered by the opposite parties sympathetically and as has been done in similar other cases and disposed of in accordance with law within a period of two weeks from the date of receipt of said application along with the deposit as above under intimation to the petitioner.

Till a decision is taken, the status quo in respect of ownership/custody of the vehicle in question as it stands today shall be maintained.”

4. On the previous date i.e. on 22nd January 2021, learned counsel for the Appellant sought leave to file an additional affidavit

indicating when in compliance with the directions issued by learned Single Judge on 4th February 2020 in W.P.(C) No.3236 of 2020, the Appellant had made deposit of the amount enclosing the proof therewith. Pursuant to the above order, an additional affidavit dated 17th February 2021 has been filed by the Appellant pointing out that in fact the Appellant had deposited the amount on 24th February 2020 itself.

5. The Court is of the view that in light of the above developments, the contempt petition filed i.e. CONTC No.1052 of 2020 ought to have been entertained and should not have been dismissed in limine as not maintainable by learned Single Judge by the impugned order. In other words, an opportunity ought to have been given to the Appellant to put forth his grievance regarding non-compliance with the direction issued by the Court on 4th February 2020 in the abovementioned writ petition. A reply ought to have been sought from the Respondent by way of an affidavit.

6. In that view of the matter, the impugned order dated 2nd July 2020 (Annexure-2) passed by learned Single Judge in CONTC No.1052 of 2020 is hereby set aside. The contempt petition i.e. CONTC No.1052 of 2020 is restored to file and will be listed for hearing on 5th April 2021 before learned Single Judge. By that date, the Respondent will file a show cause affidavit with an advance copy to the learned counsel for the Appellant herein.

7. A complete copy of the papers in the present contempt appeal including the additional affidavit as well as paper book of the contempt case i.e. CONTC No.1052 of 2020 be served today itself by learned counsel for the Appellant on learned counsel for the Respondent. Till such time learned Single Judge takes up the aforementioned contempt case, status quo with regard to the vehicle in question shall be maintained by the parties.

8. Accordingly, the contempt appeal is disposed of.

9. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

S.K. Guin