

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.39493 OF 2016

ORDER:

1. This writ petition is filed by the petitioner under Article 226 of the Constitution of India aggrieved over the order dated 26.8.2016 passed by the 2nd respondent in MW.No.5 of 2015.
2. The 1st respondent filed the above MW against the petitioner before the 2nd respondent. As there was no representation on behalf of the petitioner on 19.4.2016 in the above said case, the petitioner was set ex parte. The petitioner filed an application to set aside the ex parte order dated 19.4.2016. The 2nd respondent by order dated 26.8.2016 dismissed the said application on the ground that the petitioner has not filed the said application to set aside the ex parte order within the prescribed period of 30 days.
3. Heard and perused the material available on record.
4. The order passed by the 2nd respondent dated 26.8.2016 is not illegal. Even though the application was filed after lapse of 30 days, in the interest of justice, this Court is of the view that an opportunity should have been given to the petitioner to raise the grounds and to place arguments before passing the order in said application. In the circumstances, the order dated 26.8.2016 passed by the 2nd respondent in MW No.5 of 2015 is set aside and consequently, the application filed by the petitioner seeking to set aside the ex parte order dated 19.4.2016 is restored. The 2nd respondent is directed to fix a date for hearing the application filed by the petitioner to set aside the ex parte order, and pass appropriate orders after hearing both the parties.

5. Accordingly, the Writ Petition is disposed of. No costs.
Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 23rd November, 2016
Nn



HONOURABLE SRI JUSTICE RAJA ELANGO



WRIT PETITION No.39493 of 2016

Date: 23rd November, 2016

Nn