

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.2574 OF 2019
and
C.M.P.No.16932 OF 2019

63 Moons Technologies Ltd.

Formerly known as M/s.Financial Technologies (India) Ltd,

Rep.by its Authorized signatory Mr.D.John Deepak,

Having its Registered Office at Shakti Tower-1, 7th Floor,

Premises E, 766, Anna Salai,

Thousand Lights, Chennai 600 002.

... Petitioner

Vs.

N.Sundaresha Subramaninan.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Article 227 of Constitution of India, praying to set aside the impugned order dated 11.07.2019 in I.A.No.3 of 2019 in O.S.No.3155 of 2019 on the file of the XVII additional City Civil Court at Chennai.

For petitioner : Mr.ARL.Sundaresan,
Senior Counsel
for M/s.Nithyaesh & Vaibhav

ORDER

The petitioner filed a suit for damages and for permanent injunction. Pending the suit, the petitioner filed an Interlocutory Application for interim injunction. Initially notice was ordered on 23.05.2019, returnable by 10.06.2019. On that date, the respondent filed vakalat and the matter was adjourned to 20.06.2019. On that date the petitioner did not appear and it was adjourned to 11.07.2019. There was no representation for the petitioner till 04.00 p.m. on 11.07.2019 also. A memo came to be filed by the respondent on the basis of which interim injunction application was dismissed for non appearance of the petitioner. Against which, the petitioner filed an Interlocutory Application in I.A.No.4 of 2019 seeking to set aside the dismissal order passed in I.A.No.3 of 2019, dated 11.07.2019. Pending disposal of the Interlocutory Application, the petitioner has approached this Court, to set aside the very same order.

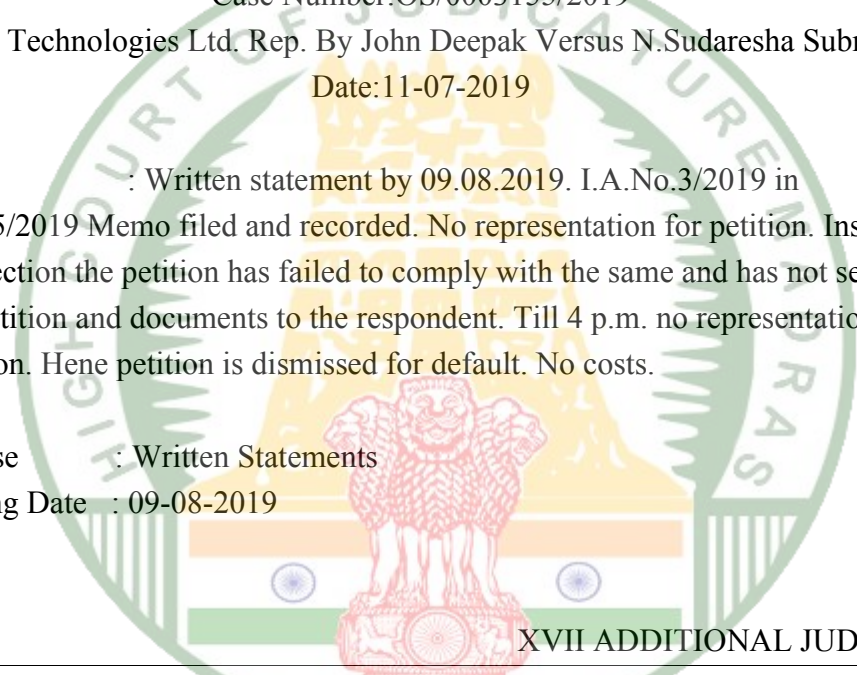
2. The learned senior counsel appearing on behalf of the petitioner would contend that the so called memo filed by the respondent was not served on the petitioner and the injunction petition should not have been dismissed without assigning reasons and it could have been adjourned to a future date. He further submitted that normally, interim applications shall be disposed of within a period of one month, but in the instant case, the Interlocutory Application filed for injunction on 23.05.2019 and the petition for restoration of injunction application in I.A.No.4 of 2019 are periodically adjourned and that there is no progress in the same, which causes irreparable damage to the petitioner.

3.I have considered the submissions.

4. Even according to the petitioner, he was not present on 20.06.2019 and on 11.07.2019, for, the counsel had wrongly noted the dates of hearing. He has also filed a petition to set aside the order of dismissal for default dated 11.07.2019 and the same is pending after service of notice to the other side. During the pendency of the petition, to set aside the order dated 11.07.2019, he has approached the Court for the same relief.

5.The order dated 11.07.2019 passed by the XVII Additional Judge in O.S.No.0003155 of 2019 reads as under:

Daily Status	
City Civil Court, Chennai	
In the Court of : XVII Additional Judge	
CNR Number:TNCH010142712019	
Case Number:OS/0003155/2019	
63 Moons Technologies Ltd. Rep. By John Deepak Versus N.Sudaresha Subramanian	
Date:11-07-2019	
Business	: Written statement by 09.08.2019. I.A.No.3/2019 in O.S.no.3155/2019 Memo filed and recorded. No representation for petition. Inspite of a specific direction the petition has failed to comply with the same and has not served the copies of petition and documents to the respondent. Till 4 p.m. no representation on side of the petition. Hene petition is dismissed for default. No costs.
Next Purpose	: Written Statements
Next Hearing Date	: 09-08-2019



6. In fact, the order was not passed only on the memo filed by the respondent, but for the non compliance of the specific direction to serve pleadings set and for his non-appearance till 4 p.m. The petitioner has not conducted his case diligently and vigilantly. He has also not shown to this Court, the prejudice caused to him by the non service of the memo and its contents. In the absence of specific pleadings as to blatant irregularity or illegality, the orders shall not be interfered by

exercising the superstanding power of the High Court over Sub-ordinate Courts. I do not find any such serious irregularity in the order passed by the trial Judge warranting interference under Article 227 of the Constitution of India in favour of the defaulting petitioner. The petitioner cannot maintain parallel proceedings; that too to set aside the order dismissing the petition for default. However, the contention of the learned Senior counsel that the petition is periodically adjourned needs consideration.

7. Considering the submissions made, a direction is issued to the learned XVII Additional City Civil Court, Chennai, to dispose of Interlocutory Application filed by the petitioner in I.A.No.4 of 2019 in I.A.No.3 of 2019 in O.S.No.3155 of 2019, preferrably on 09.08.2019, if not, within a period of two weeks from 09.08.2019.

8. This Civil Revision Petition is disposed of with the above observation and direction. No costs. Consequently, connected civil miscellaneous petition is closed.

06.08.2019

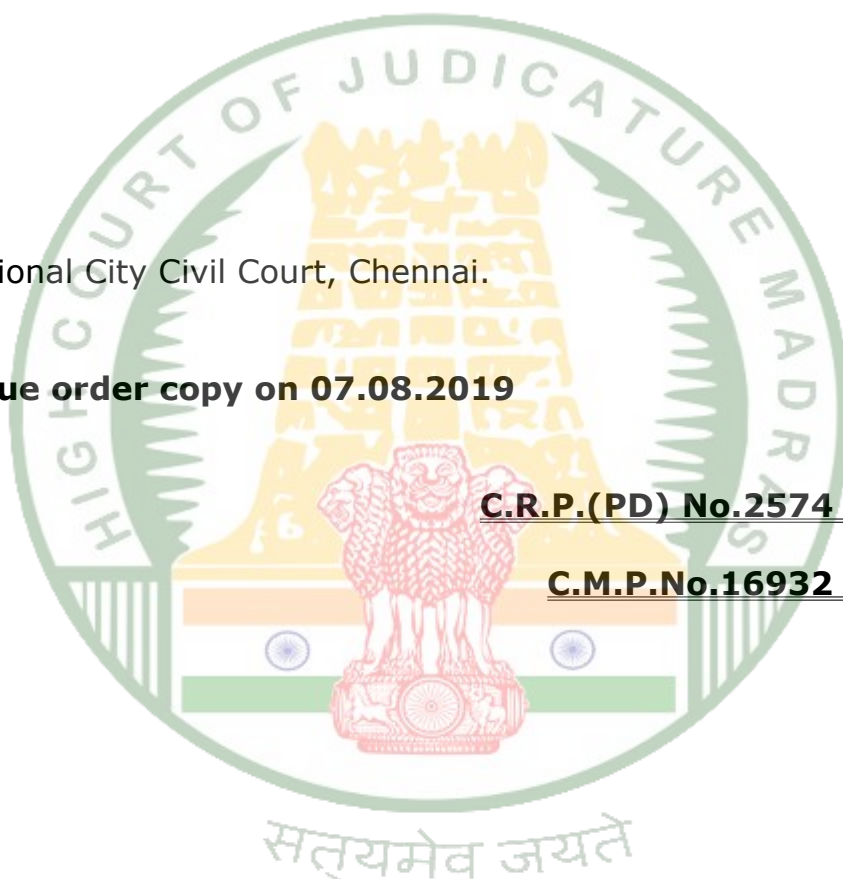
Index: Yes/No
Speaking Order/Non Speaking order.

M.GOVINDARAJ, J

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To
XVII Additional City Civil Court, Chennai.

Note: Issue order copy on 07.08.2019



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