



C.M.A.No.1936 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1936 of 2021
and
C.M.P.No.10428 of 2021

U.V.Mathew

... Appellant

vs.

Mr.Sakkubai

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order in and decretal order dated 01.12.2020, passed by the learned XVI Additinal Judge, City Civil Court, Chennai in I.A.No.1/19 in O.S.No.4436 of 2018.

For Appellant : Mr.C.Paraneedharan
For Respondent : Mr.T.Dilip Chander

JUDGMENT

This Civil Miscellaneous Appeal is filed against the order and decretal order dated 01.12.2020, passed by the learned XVI Additional Judge, City Civil Court, Chennai in I.A.No.1/19 in O.S.No.4436 of 2018.



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2. Before the trial Court Suit was decreed on 21.10.2019 and hence, the present petitioner, who is a Defendant filed this above I.A.No.1 of 19 under Order IX Rule 13 C.P.C to set aside the exparte decree. When the I.A came up for final disposal, it appears that due to some personal inconvenience, the learned counsel did not appear on 21.02.2020, 09.03.2020 and 17.03.2020 and hence, petitioner side was closed and orders have been passed before the trial Court.

3. Heard the learned counsel for the parties.

4. Mr.T. Dilip Chander, learned counsel for the respondent strongly opposed for the prayer.

5. The main suit is for declaration of title and restoration of possession and hence, I find that an opportunity is to be given to the defendant before passing final orders. No doubt, on the earlier occasions, the learned counsel has not appeared before the trial Court, due to his personal inconvenience, ie.) during the corona period.

6. Hence, I am inclined to allow this C.M.A on condition that payment of Rs.5,000/- to be made to the learned counsel for the Respondent herein, within a period of four weeks from the date of receipt of a copy of this order.

7. On such payment and production of proof, the trial Court shall restore the I.A.No.1 of 2019 in O.S.No.4436 of 2018 on file and



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dispose of the same, within a period of 12 weeks thereon.

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8. With the above direction, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2022

Index : Yes / No

Speaking Order : Yes / No

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To

1. The XVI Additional Judge, City Civil Court, Chennai

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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RMT.TEEKAA RAMAN, J.,

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