



Application No.2409 of 2022 in
A.No.3821 of 2021

WEB COPY

C.V.KARTHIKEYAN,J.

Enquiry under Order XXI Rule 41 was required and it was prerogative of the learned Master to venture into such an exercise. It requires, in the first place, the filing of an affidavit by the judgment debtor to establish that he has sufficient means to discharge the decree.

2. It is stated by Mr.K.Ashok Kumar, learned counsel for the judgment debtor that this Application has been filed questioning the order dated 10.06.2022. It is claimed that such an affidavit was filed on 09.06.2022. Two copies of the affidavit bearing Office seal dated 09.06.2022 are available in the Court bundle.

3. This Court can only presume that said affidavit was not brought to the knowledge of the learned Master. While looking into papers or he might have overlooked that particular affidavit. At any rate, the learned Master should record personal satisfaction before resorting to examination of witnesses.

4. The present Application in A.No.2409 of 2022 had been filed against the order of the learned Master directing such examination, overlooking the affidavit filed in compliance with Order XXI Rule 41 C.P.C. I am confident that Mr.A.V.Arun, learned counsel for the respondent, will now serve a copy of the said affidavit on Mr.Ashok Kumar, learned counsel for the applicant.



WEB COPY



C.V.KARTHIKEYAN.J.,

mrm

5. Let the Master examine that particular affidavit, apply his mind to the provisions under Order XXI Rule 41 C.P.C and proceed further in manner known to law.

6. The order dated 10.06.2022 is set aside and A.No.3821/2021 is remitted back to the learned Master for hearing on 16.09.2022. Registry may place the affidavit which is available in the Court bundle separately before the learned Master for his consideration and then, let further orders be passed.

7. With the above directions, the Application stands allowed.

06.09.2022

mrm

Application No.2409 of 2022 in
A.No.3821 of 2021