



C.M.P.No.10767 of 2022 in
C.R.P.(PD) No.1407 of 2022

WEB COPY

R.N.MANJULA.J,

This Civil Miscellaneous Petition has been filed to set aside the exparte order dated 29.04.2022, passed by this Court in C.R.P.No.1407 of 2022.

2. The civil revision petitioner is a Flat Owners Association by name M/s Olympia Opaline Flat Owners Association represented by its Secretary. The suit has been filed by the above said Flat Owners Association against the revision petitioner Dinesh in O.S.No.137 of 2019 for recovery of arrears of Apartment maintenance. During the pendency of the said suit proceedings, Dinesh who is the defendant has filed a petition for seeking an order of mandatory injunction directing the Association to restore water supply and other essential services to the Flat where Dinesh is residing. The said petition was allowed on condition for payment of Rs.1,00,000/- as part payment towards the arrears of Apartment maintenance. However, the said order was challenged by the plaintiff Association in C.M.A.No.7 of 2021. In the said Civil Miscellaneous Appeal, an interim application was filed in I.A.No.3 of 2021 for staying the operation of the order dated 02.09.2021 made in I.A.No.2 of 2021. The said petition was dismissed with direction to Dinesh to pay the monthly maintenance charges as fixed by the Association without any default, commencing from the month of February 2022. Aggrieved over the dismissal, the Flat Owners Association has filed this Civil Revision Petition.



WEB COPY

3. On 29.04.2022, this Court has passed the following order in this Civil Revision Petition at the admission stage itself:

“There is no representation for the respondent

2. The order of the Appellate Court is suspended

3. The Civil Revision Petition is disposed of at the admission stage itself. Consequently, the connected C.M.P.No.7296 of 2022 is closed. No costs.”

4. Despite Dinesh had filed caveat, no representation was made on behalf of Dinesh. Hence the Civil Revision Petition was allowed and the order passed in I.A.No.3 of 2021 was suspended. In view of that, Dinesh lost the benefits available to him through the order in his favour in I.A.No.2 of 2021. Since the order of the Court dated 29.04.2022, was not passed on merits, but in the absence of Dinesh, he filed this Civil Miscellaneous Petition to restore the same by revoking the order suspending the order of the Appellate Court.

5. It is submitted by the learned counsel for the respondent that Dinesh has an arrear of Rs.5,37,138/- towards Apartment maintenance.

6. In such case, I feel that this Civil Miscellaneous Petition can be allowed only on condition that the petitioner in the Civil Miscellaneous Petition shall deposit atleast 50% out of Rs.5,37,138/- i.e., Rs.2,68,569/-.



WEB COPY

7. Accordingly, this Civil Miscellaneous Petition stands allowed and the petitioner in this Civil Miscellaneous Petition is directed to deposit a sum of Rs.2,68,569/- within a period of two weeks from the date of receipt of a copy of this order to the credit of O.S.No.137 of 2019, pending on the file of Principal Sub Court, Chengalpattu.

28.07.2022

gsk



WEB COPY



R.N.MANJULA.J,

gsk

C.M.P.No.10767 of 2022 in
C.R.P.(PD) No.1407 of 2022

28.07.2022