



Rev.Aplc(MD)No.157 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Rev.Aplc(MD)No.157 of 2022

in

C.M.A(MD)No.77 of 2010

R.Muniyandi

... Petitioner/Appellant

Vs.

1.The Chief Revenue Controlling Authority,
Chennai.

2.The Special Deputy Collector (Stamps),
Thanjavur.

... Respondents/ Respondents

Prayer: Review Petition filed under Order 47 Rule 1 & 2 of Code of Civil Procedure r/w. Section 114 of Code of Civil Procedure, praying this Court to review the order, dated 19.03.2019 passed in C.M.A(MD)No.77 of 2010 by this Court.

For Petitioner : Mr.K.Rajeshwaran

For Respondents : Mr.N.G.A.Natraj
Government Advocate



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ORDER

The present review application has been filed by the appellant in C.M.A(MD)No.77 of 2010.

2. When the appeal was listed for hearing on 19.03.2019, there was no representation on the side of the appellant. However, the learned Judge has proceeded to decide the appeal on merits. A perusal of the order copy indicates that there was no appearance on the side of the appellant and the appeal has been decided on merits, after hearing the learned counsel appearing for the respondents.

3. As per Order 41 Rule 17 of Code of Civil Procedure, when the appellant had not appeared, the appeal could be dismissed for default. The explanation to the said rule clarifies that nothing in the sub-rule shall be construed as empowering the Court to dismiss the appeal on merits. Therefore, it is clear that the Court does not have any power to decide the appeal on merits in the absence of the learned counsel for the appellant. In the present case, admittedly in the absence of the appellant, the appeal has been decided on merits in violation of the provision cited supra.



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4. In view of the above, this Review Application stands allowed.

20.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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**Note : Registry is directed to list the appeal
for final hearing on 26.04.2023.**

To

- 1.The Chief Revenue Controlling Authority,
Chennai.
- 2.The Special Deputy Collector (Stamps),
Thanjavur.



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R.VIJAYAKUMAR ,J.

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Order made in
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Dated:
20.04.2023