



C.R.P.No.2112 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2112 of 2024

Prem @ Prem Kumar

... Petitioner

Vs.

1.Padmanabhan

2.United India Insurance Company Ltd.,
Divisional Office,
No.66-68, Gandhi Road,
Kanchipuram.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 21.12.2023 passed in I.A.No.2 of 2023 in M.C.O.P.No.84 of 2008 on the file of the Court of the Chief Judicial Magistrate, Chengalpet.

For Petitioner : Mr.K.M.Mohamedziauddin

ORDER

This Civil Revision Petition has been filed to set aside the impugned docket order, dated 21.12.2023 passed in I.A.No.2 of 2023 in M.C.O.P.No.84 of 2008 by the learned Chief Judicial Magistrate, Chengalpet.



C.R.P.No.2112 of 2024

2.The learned counsel for the petitioner submitted that the petitioner met with road accident, suffered injuries in the year 2008 and a case in Crime No.1070 of 2007 for offence under Sections 279 & 337 of IPC registered. The petitioner for his medical expense and compensation made claim of Rs.9,50,000/- and restricted the claim to Rs.5,03,000/- in M.C.O.P.No.84 of 2008. Earlier, the 1st respondent set exparte and thereafter, the 2nd respondent Insurance Company set exparte on 05.07.2023. The petition in M.C.O.P.No.84 of 2008 dismissed for default on 25.09.2023. For restoration, the petitioner had filed I.A.No.2 of 2023 in M.C.O.P.No.84 of 2008. Notice ordered, but no counter filed by the respondents. Hence, the restoration petition allowed with a condition that the petitioner to pay Rs.1,000/- to the District Legal Services Authority, Chengalpet on or before 20.12.2023. When the case listed on 21.12.2023, the lower Court by impugned order, dated 21.12.2023 dismissed I.A.No.2 of 2023 in M.C.O.P.No.84 of 2008 due to no representation and non-payment of the amount.

3.The learned counsel for the petitioner further submits that the



C.R.P.No.2112 of 2024

petitioner not only physically injured in the accident, later he suffered some depression. From 18.09.2023, the petitioner has gone missing for which the petitioner's mother gave complaint to the Inspector of Police, Shankar Nagar Police Station, Chengalpet and case in Crime No.580 of 2023 registered under 'Man Missing'. Since the petitioner could not be traced, the petitioner's mother P.Parimala filed H.C.P.No.2256 of 2023 before this Court. Thereafter, the petitioner was located, produced before this Court on 08.01.2024. Recording the same, H.C.P.No.2256 of 2023 was disposed. Due to above said health issues, the petitioner unable to appear before the lower Court and comply with the order. The learned counsel for the petitioner undertakes to remit the amount of Rs.1,000/- to the District Legal Services Authority, Chengalpet as directed by the lower Court within a period of two weeks. Hence, he prays for setting aside the impugned order.

4.Considering the submissions and on perusal of the materials, this Court finds that the reason given by the petitioner is acceptable and this Court is inclined to set aside the impugned order passed by the lower Court. Accordingly, the impugned docket order, dated 21.12.2023 passed by the learned Chief Judicial Magistrate, Chengalpet in I.A.No.2 of 2023 in



C.R.P.No.2112 of 2024

M.C.O.P.No.84 of 2008 is set aside.

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5.The petitioner is directed to deposit Rs.1,000/- to the District Legal Services Authority, Chengalpet within ten days from the date of receipt of a copy of this order and produce the proof along with memo before the learned Chief Judicial Magistrate, Chengalpet. On perusal of proof of payment, the learned Judicial Magistrate, Chengalpet to restore M.C.O.P.No.84 of 2008 on file and dispose of the same within a period of two months from the date of restoration.

6.In the result, this civil revision petition stands allowed. No costs.

20.06.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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To

The Chief Judicial Magistrate,
Chengalpet.



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C.R.P.No.2112 of 2024



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C.R.P.No.2112 of 2024

M.NIRMAL KUMAR, J.

vv2

C.R.P.No.2112 of 2024

20.06.2024