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C.R.P.No.1299 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10..06..2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.1299 of 2025

&

C.M.P.No.7738 of 2025

M/s.AIE Cars
(A Unit of AI Enterprises Pvt. Ltd.,)
Rep. by its CEO,
Nos.1 to 14, East Coast Road,
Neelangarai, Chennai 600 115.

..... Petitioner

-Versus-

M/s.Sikand Standley Enterprises Pvt. Ltd.,
Rep. by its Authorized Signatory Mr.C.Sundaresan,
No.9, Poomagal Main Road, Ekkatuthangal,
Chennai 600 032.

..... Respondent

Petition filed under Section 115 of the Code of Civil Procedure, 1908,
praying to set aside the Order dated 30.01.2025 passed by the learned
Subordinate Judge, Alandur in E.P.No.442 of 2021 in O.S.No.204 of 2018.

For Petitioner : Mr.Ramaswamy Meyyappan

For Respondent : No appearance



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ORDER

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Challenging the order dated 30.01.2025 passed by the Executing Court at Alandur in E.P.No.442 of 2021 in O.S.No.204 of 2018 ordering attachment of the movable properties, the judgement-debtor is before this court with the present revision petition.

2. Despite service of notice, the respondent has not chosen to enter appearance either in person or through a counsel and contest the revision petition. Therefore, this court is inclined to hear the petitioner and pass orders on merits.

3. The respondent herein filed a suit in O.S. No. 204 of 2018 on the file of the learned Subordinate Judge, Alandur, against the revision petitioner for recovery of a sum of Rs.5,18,793/- including a sum of Rs.93,553/- being interest from 02.08.2017 to till 02.07.2018 and for costs. The said suit was decreed ex parte on 29.04.2019 against the revision petitioner. Pursuant to the said ex parte decree, the respondent filed an execution under Order XXI, Rule 45 & 64 of CPC for attachment and sale of the moveable properties belonging to the respondent to satisfy the decree amount. The executing court, by order dated 30.01.2025, directed the attachment of the movable properties.



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4. It is the case of the revision petitioner that in the suit, no summons was served on the revision petitioner; they came to know about the ex parte decree only when the notice was sought to be served in the pending execution petition; immediately on coming to know of the same, they moved an application in I.A.No.10397 of 2022 seeking to set aside the ex parte decree passed against them on 29.04.2019 along with an application in I.A.No.10396 of 2022 under Section 5 of the Limitation Act, 1963 seeking to condone the delay in filing the application to set aside the ex parte decree.

5. The only grievance of the petitioner is that those applications have not been numbered by the trial court till now, and the status of those applications is not known to the revision petitioner. While so, in the execution petition filed based on the ex parte decree, orders have been passed by the executing court attaching the movable properties belonging to the civil revision petitioner.

6. A certified copy of the court-fees register has been produced before this court to support his submission and demonstrate that an application under Order IX, Rule 13 of the CPC seeking to set aside the ex parte decree, as well as an application under Section 5 of the Limitation Act seeking to condone the delay in filing the set aside application, along with a written statement before



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the trial court, was filed.

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7. A careful examination of the certified copy of the court fees register reveals that the applications asserted by the learned counsel for the petitioner were filed and entered in the court fees register on 19.10.2022 itself. Once applications were filed, the trial court should have taken note of them, numbered them, and made a decision then and there. Unfortunately, those applications have been waiting without being numbered since October 2022, and the execution proceedings have progressed to the point of passing an order of attachment, which in the considered opinion of this court is not correct.

8. The learned counsel for the revision petitioner would submit that pursuant to the orders of this court dated 27.03.2025 and 22.04.2025, the civil revision petitioner deposited a sum of Rs.4,25,240/- to the credit of the suit in O.S.No.204 of 2018 on the file of the Subordinate Judge, Alandur. The learned counsel for the revision petitioner would further submit that to show his bona fide, the revision petitioner has deposited the amount to the credit of the civil suit as directed by this court.

9. In the light of the above, though the order of attachment has been passed in the pending execution petition filed based on the ex parte decree against the revision petitioner, since the section 5 application filed by the



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revision petitioner along with an application seeking to set aside the ex parte decree enclosing their written statement is yet to be numbered, this court is inclined to afford an opportunity to the revision petitioner to get the section 5 application numbered and have it decided on merits. Accordingly, the order for the attachment of moveable properties impugned in the revision petition requires interference at the hands of this court.

10. In the result, the order impugned in the revision petition is set aside. The learned subordinate judge at Alandur is directed to number the application filed by the revision petitioner seeking to condone the delay in filing the application to set aside the ex parte decree and the application to set aside the ex parte decree and hear the same by providing opportunity to both parties and decide them on merits and in accordance with law as expeditiously as possible. Till such time, the executing court shall not proceed further with the execution petition. This civil revision petition is allowed accordingly with the above directions. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no

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- 1.The Subordinate Judge, Alandur, Chengalpattu District.*
- 2.The Executing Court (Sub Court), Alandur, Chengalpattu District.*



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N.SATHISH KUMAR.J.,

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