

MACC -61/22

CIS – 61/22

Order dated 19.05.2025

Today is fixed for exparte hearing.

The petitioner files appearance through their ld counsel.

Ld advocate for the petitioner is present.

One application is filed by OP No. 2 praying for vacating the order of exparte hearing passed against him on 20.09.2024. Along with the application for setting aside exparte order, the OP No. 2 has also filed his written statement. Copy of the application and written statement are served upon the other side.

It is submitted by OP No. 2 that he could not appear before this court in time due to wrong entry in the diary of the ld Advocate. It is further submitted that OP no. 2 will suffer irreparable loss and injury if he is not allowed to contest the case.

The petitioner does not raise any objection to the prayer for setting aside exparte hearing against OP No. 2.

It is laid down under order 9 rule 7 CPC that where the court had adjourned the hearing of the suit exparte and the defendant had appear before such hearing commences and assign good cause for his previous non appearance; he may upon such terms as the court direct as to cost or otherwise be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

In the present case, the suit has not been heard in its entirety . Such can made out from the fact that evidence of the petitioner is yet to begin. Now it appears that the OP No. 2 is the insurer of the offending vehicle and he is required to be heard for arriving at a just and fair decision of this case.

Thus for ends of justice the prayer for recall of order of exparte hearing is allowed.

Hence, it is  
ORDERED

the prayer of the OP No. 2 for setting aside exparte order is allowed on contest and the WS filed by OP No. 2 is accepted.

Addl. Dist. & Sessions

Judge, F.T.C. -1,

Alipurduar.

J.O. Code W.B.

01009

(MACC

Tribunal)

Later,

Case record is taken up for framing of issues.

Issues are framed in separate sheet and kept enclosed in the record.

Fixing 21.07.2025 for PH.

Addl. Dist. & Sessions Judge,  
FTC-I, Alipurduar,

Addl. Dist.& Sessions Judge,  
FTC-I, Alipurduar,