

MACC 84/22 (CIS 84/22)

Order dated 20.02.2026

Today is fixed for hearing of argument.

The petitioner files appearance through their ld counsel.

Ld advocate for the petitioner is present.

The case is proceeding exparte against OP No. 2.

One application had been filed by OP No. 2 on 15.12.2025 praying for vacating the order of exparte hearing passed against him. Along with the application for setting aside exparte order, the OP No. 2 had also filed his written statement. Copy of the application and written statement had been served upon the other side.

It is submitted by OP No. 2 that he could not appear before this court after receiving notice due to unavoidable circumstances. 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 be made out from the fact that final hearing 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 order of exparte hearing is allowed.

Hence, it is

ORDERED

the prayer of the OP No. 2 for setting aside exparte order is allowed 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

The petitioner files examination in chief on affidavit of PW 1 and PW 2. Copy supplied.

Both the petitioner and OP No. 2 filed legal appearance.

Ld counsel for the petitioner and OP No. 2 are present.

The witness PW 1 and PW 2 are present before the court and examined in full.

The documents filed by the petitioner are marked as exhibit as follows:

Certified copy of formal FIR. Let it be marked as Exhibit 1.

Certified copy of written FIR. Let it be marked as Exhibit 2.

Certified copy of seizure list dated 28.08.2022. Let it be marked as exhibit 3.

Certified copy of seizure list dated 02.09.2022. Let it be marked as exhibit 4.

Certified copy of seizure list dated 13.09.2022. Let it be marked as exhibit 5.

Certified copy of Mechanical report of the vehicle. Let it be marked as exhibit 6.

Certified copy of owner's bond. Let it be marked as exhibit 7.

Certified copy of charge sheet. Let it be marked as exhibit 8.

Certified to be true copy of PM report. Let it be marked as Exhibit 9.

Certified to be true copy of registration. Let it be marked as exhibit 10.

Certified to be true copy of insurance policy of offending vehicle. Let it be marked as Exhibit 11.

Certified to be true copy of fitness copy of the offending vehicle. Let it be marked as Exhibit 12.

Certified to be true copy of letter of authorization of offending vehicle. Let it be marked as Exhibit 13.

Xerox copy of tax token of offending vehicle. Let it be marked as Exhibit 14.

Certified to be true copy of driving license of driver of offending vehicle. Let it be marked as Exhibit 15.

Xerox copy of Aadhar Card of petitioner No. 1, 2. Let it be marked as exhibit 16 series.

Xerox copy of Aadhar Card of deceased. Let it be marked as exhibit 17.

Certified to be true copy of accident information report. Let it be marked as exhibit 18.

Fixing 01.11.2025 for argument.

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

Additional Dist. & Sessions Judge,
1st Fast Track Court, Alipurduar.