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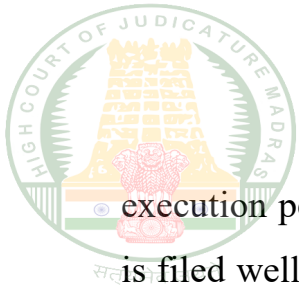
A.No.5811 of 2024
in
E.P No.103 of 2013

ORDER

1. This petition is filed by the applicant/Judgment debtor to set aside the ex-parte order dated 10.10.2025 passed by this Court in the above execution petition.

2. Heard both side counsels and materials on record perused. The Counsel for the applicant submitted that the applicant was set ex-parte on 0.10.2025 for non-filing of his counter in the execution proceedings. The reason for non-filing of counter and non-appearance on 12.09.2025 and 10.10.2025 is due to ill health of the Counsel and that counter in EP has been filed along with this application which is filed in time without any delay. The only contention raised by the respondent/decreed-holder is that the applicant has not filed any proof in support of the reasons stated in the accompanying affidavit and this application is filed only to protract and prolong the EP proceedings and to prevent the decree holder from enjoying the fruits of the arbitration award.

3. In the course of argument the counsel for the respondent/decreed holder submitted that if at all this Court is inclined to allow this application, a direction may be given to the applicant to deposit some amount of the arbitral award. It is seen that the Judgment debtor has entered his appearance through his Counsel in the EP and so it is not his case that he is not aware of the proceedings. The reason stated is that the applicant counsel was suffering with ill health and because of which only the applicant was not able to file his counter and there was no representation on his behalf when the case was listed on 12.09.2025 and 10.10.2025. Now that the applicant has also filed his counter in the



execution petition along with this application. Considering the fact that this application is filed well within the time stipulated under order 21 rule 106(3) of CPC and also filed along with the counter in the main EP, and further taking into fact that innocent litigant should not be put at sufferance for the fault of his Advocate this Court is inclined to allow this application on terms.

In the result, this application will be allowed on condition that the applicant is directed to pay a cost of Rs.2,000/- to the respondent/decreed holder on or before 09.06.2026. For compliance call on 10.06.2026.

MASTER