



2025:DHC:6313



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 29.07.2025***

+ **CM(M) 968/2021, CM APPL. 39012/2021 & CM APPL. 45547/2025**

M/S REGENT AUTOMOBILES LTD.Petitioner

Through: Mr. Nimish Chib, Mr. Vartul Vishnoi
& Mr. Chetan Silotia, Advocates.

versus

RELIANCE GENERAL INSURANCERespondent

Through: Mr. Rajeev M. Roy, Advocate.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed on behalf of the Petitioner under Article 227 of the Constitution of India against the order dated 01.03.2021 passed by learned Presiding Officer, MACT, South District, Saket Courts, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application filed under Order IX Rule 13 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] filed by the Petitioner seeking to set aside an Award, which has been dismissed by the learned Tribunal.

2. At the outset, learned Counsel for the Respondent submits that the present Petition is not maintainable under the provisions of Article 227 of the Constitution, 1950 and that only an appeal is maintainable. Learned



Counsel seeks to rely upon Order XLIII Rule 1(d) of the CPC in this behalf.

3. Learned Counsel for the Petitioner clarifies that the issue that arises in the present Petition is qua grant of recovery rights by an Award dated 17.12.2012 passed by learned Presiding Officer, MACT (South-01), Saket Courts, New Delhi [hereinafter referred to as “Award”] passed by the Ld. Tribunal. It is submitted that the challenge in the present Petition has been filed before this Court in view of the fact that recovery rights were granted to the Respondent without service on the Petitioner. Learned Counsel, however, concedes that no appeal has been filed seeking to challenge the Award dated 17.12.2012 under Section 173 of the Motor Vehicles Act, 1988.

4. Undisputably, the Award dated 17.12.2012 has not been challenged in accordance with law by the Petitioner.

5. The challenge in the present Petition is also not maintainable. The Order XLIII Rule 1(d) of the CPC sets out that an appeal would lie under the provisions of Section 104 of the CPC from an order under Order IX Rule 13 of the CPC rejecting an application to set aside a decree passed ex parte. The Order XLIII Rule 1(d) of the CPC is set out below:

“ORDER XLIII

APPEALS FROM ORDERS

1. Appeal from orders.—An appeal shall lie from the following orders under the provisions of section 104, namely: —

...

(d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed ex parte; ...”

6. In view of the foregoing discussion, the Petition is dismissed. All



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pending Applications stand closed.

7. Liberty is however granted to the Petitioner to take appropriate steps in accordance with law for redressal of his grievances.
8. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 29, 2025/ ha