

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 2368 of 2009 (F)

**AGAINST THE ORDER IN O.P(MV) No. 1087/2004 of MOTOR ACCIDENT CLAIMS
TRIBUNAL, MUVATTUPUZHA DATED 16-12-2008**

PETITIONER:

**SAJEESH KARTHIKEYAN,
S/O. KARTHIKEYAN, AGED 38,
19/38, VARIAMS WATER LAND ROAD,
PALLURUTHY, KOCHI - 6.
ERNAKULAM DISTRICT.**

BY ADV. SRI.E.NARAYANAN

RESPONDENT(S):

- 1. SHINE JOSEPH, S/O. JOSEPH,
VATHIELIL HOUSE, SOUTH MARADY KARA,
MARADY VILLAGE.**
- 2. MARTIN, S/O.JOHN,
CHEMBARATHICKAL HOUSE, PUTHUPPADY,
KOTHAMANGALAM.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P-1: TRUE COPY OF THE PETITION DATED 31.08.2004 IN O.P. (MV) NO.1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-2: TRUE COPY OF THE WRITTEN STATEMENT DATED 21.06.2005 SUBMITTED BY THE PETITIONER HEREIN IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-3: TRUE COPY OF THE SALE AGREEMENT DATED 07.11.2002 ENTERED INTO BETWEEN THE PETITIONER AND THE SECOND RESPONDENT.
- EXT. P-4: TRUE COPY OF THE AFFIDAVIT IN LIEU OF CHIEF EXAMINATION DATED 31.03.2008 SUBMITTED BY THE PETITIONER IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-5: TRUE COPY OF THE AFFIDAVIT ACCOMPANYING I.A.4129/2008 IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-6: TRUE COPY OF THE I.A. 4128/08 IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-7: TRUE COPY OF THE ORDER DATED 16.12.2008 IN I.A.4128/08 IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-8: TRUE COPY OF THE ORDER DATED 16.12.2008 IN I.A.4129/08 IN O.P. (MV) NO. 1087/04 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA.
- EXT. P-9: TRUE COPY OF THE NOTICE DATED 20.12.2008 ISSUED BY THE DISTRICT COLLECTOR; ERNAKULAM TO THE PETITIONER.
- EXT. P-10: TRUE COPY OF THE CHALAN RECEIPT DATED 11.05.2009 ISSUED FOR PAYMENT OF THE STAMP DUTY.
- EXT. P-11: TRUE COPY OF THE COMMUNICATION DATED 15.05.2009 SEND BY THE DISTRICT COLLECTOR, ERNAKULAM TO THE MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

ANIL K. NARENDHAN, J.

W.P.(C) No.2368 of 2009

Dated this the 21st day of May, 2015

JUDGMENT

The petitioner is the 2nd respondent in O.P.(M.V.) No.1087/2004 on the file of the Motor Accidents Claims Tribunal, Moovattupuzha. The said original petition was filed by the 1st respondent against the petitioner and the 2nd respondent claiming a total compensation of Rupees One lakh for the injuries sustained in an accident occurred on 15.08.2003 in which a motor car bearing registration No.KRA 3360 was involved. The petitioner is arrayed as the 2nd respondent in that original petition on the allegation that he was the registered owner of the vehicle in question at the time of accident.

2. The petitioner filed Ext.P2 written statement before the Tribunal contenting, inter alia, that he has sold the aforesaid vehicle to the 2nd respondent herein, much prior to the date of accident. In order to substantiate the same, the petitioner produced Ext.P3 sale agreement dated 07.11.2002. Ext.P3 sale agreement was produced before the Tribunal alongwith Ext.P4

affidavit of the petitioner in lieu of chief examination. As Ext.P3 sale agreement was insufficiently stamped, the Tribunal impounded the same on 04.09.2008 and forwarded it to the District Collector for realizing the stamp duty and penalty.

3. On 03.11.2008, the original petition was posted for the petitioner's evidence and on that day, it was adjourned to 13.11.2008. Since the petitioner could not produce the original of Ext.P3 sale agreement, as the same was with the District Collector, the Tribunal closed the evidence on 13.11.2008 and posted the case to 24.11.2008 for hearing. In such circumstances, the petitioner has filed Ext.P5 application to reopen the evidence and the said application was followed by Ext.P6 application seeking an order to adjourn the hearing of the original petition till the document impounded and sent to the District Collector is returned and marked. The aforesaid applications were dismissed by Ext.P7 and P8 orders and it was aggrieved by the aforesaid orders, the petitioner has moved this Court in this writ petition seeking various reliefs.

4. By order dated 22.01.2009, this Court granted an interim stay of all further proceedings in O.P.(M.V.) No.1087/2004 on the file of the Motor Accidents Claims

Tribunal, Moovattupuzha for a period of one month, which order was extended until further orders on 20.02.2009.

5. During the pendency of the writ petition, the petitioner paid a sum of Rs.12,960/- towards stamp duty and penalty, as evidenced by Ext.P10 chelan and on such payment, the District Collector has returned the original of Ext.P3 sale agreement to the Motor Accidents Claims Tribunal, Moovattupuzha, alongwith Ext.P11 covering letter.

6. Today, when the case was taken up for final hearing, the learned counsel for the petitioner submitted that in view of the fact that the petitioner has already paid the stamp duty and penalty as evident from Ext.P10 and that the District Collector has already returned the original of Ext.P3 sale agreement to the Motor Accidents Claims Tribunal, Moovattupuzha, alongwith Ext.P11 covering letter, appropriate direction may be issued to the Tribunal to proceed with the original petition in accordance with law, after permitting the petitioner to adduce evidence on the strength of Ext.P3 sale agreement.

7. I have heard the arguments of the learned counsel for the petitioner.

8. Considering the fact that the original of Ext.P3 sale

agreement has already been forwarded to the Motor Accidents Claims Tribunal, Moovattupuzha alongwith Ext.P11 covering letter, I find it appropriate to set aside Exts.P7 and P8 orders passed by the Tribunal and direct the Tribunal to proceed with O.P.(M.V.) No.1087/2004 in accordance with law, after affording an opportunity to the petitioner to adduce evidence on the strength of Ext.P3 sale agreement.

The writ petition is disposed of as above.

Sd/-
ANIL K. NARENDRA,
JUDGE

JV