



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2015

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) (MD)No.128 of 2015

and

M.P.(MD)No.1 of 2015

V.Muthuramu

:Petitioner/3rd Respondent

Vs.

1.G.Kamalam

2.G.Jeyapaul

:Respondents 1 & 2/Petitioners

3.M.Alagumalai

4.ICICI Lambord General Insurance Company Ltd.,

through its Divisional Manager,

7-AA Road, Gnana Olivupuram,

Arappalayam, Madurai District.

:Respondents 3&4/Respondents 1&2

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure praying to set aside the order dated 26.08.2014 in E.P.No.5 of 2014 in M.C.O.P.No.582 of 2009 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge) Madurai.

For Petitioner

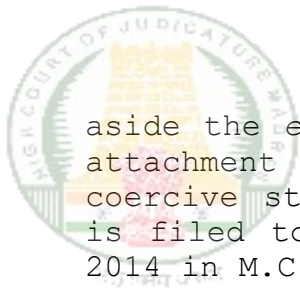
: Mr.B.Senthil Kumar

ORDER

This Civil Revision Petition is directed against the order dated 26.08.2014 made in E.P.No.5 of 2014 in M.C.O.P.No.582 of 2009 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge) Madurai.

2. Heard the learned counsel appearing for the petitioner.

3. In a Motor Accident Claim, wherein an award was passed, directing the Insurance Company to pay compensation to the claimants and recover the same from the petitioner herein, who is the owner of the vehicle. Accordingly, the Insurance Company had filed E.P.No.5 of 2014 in M.C.O.P.No.582 of 2009. In the said Execution Petition, the petitioner herein was not served with the notice. However, the petitioner alleges that the Insurance Company had filed proof of service by marking acknowledgment and the postal receipt. The name of the petitioner is 'V.Muthuramu', whereas the said notice was sent to the addressee 'M.Muthukumar, S/o.Meyyanathan, 3/11/12A, Madavan Nagar, Thiruppathur, Sivaganga District'. Whereas, the address given in M.C.O.P.No.582 of 2009 is 'V.Muthuramu, S/o.Veerabathiran, 20A/3A, Naganenthal, Mustakurichi, Kariapatti Taluk, Virudhunagar District'. Based on the alleged service of notice to the petitioner herein in the Execution Petition, the Motor Accident Claims Tribunal (IV Additional District Judge) Madurai has allowed the application to recover the amount as land revenue under the Revenue Recovery Act against the petitioner. Therefore, according to the petitioner, notice was served on a wrong person and he was set *exparte*. The petitioner herein also claims to have filed an application to set



aside the *exparte* order on 22.12.2014, which is not yet numbered. As the attachment order is in force and the revenue officials are taking coercive steps to recover the amount, the above Civil Revision Petition is filed to set aside the order dated 26.08.2014 passed in E.P.No.5 of 2014 in M.C.O.P.No.582 of 2009.

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4. In my considered view, the petitioner having filed the application to set aside the *exparte* order in E.P.No.5 of 2014, he has to agitate all the issues only before the Executing Court and not before this Court. However, considering the plight of the petitioner herein, who was not served with the notice and the Insurance Company having produced wrong proof of service not concerning the petitioner, this Court feels that the execution can be stayed till 11.02.2015. Accordingly, the execution proceedings are stayed till 11.02.2015. The petitioner is directed to take effective steps to number the Execution Application filed by him for setting aside the *exparte* order and work out his remedies in the said proceedings.

5. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The IV Additional District Judge,
The Motor Accident Claims Tribunal, Madurai.

2.The Additional District Judge, (Fast Track Court No.I), Madurai.

+1CC to M/s.B.Senthilkumar, Advocate in SR.4483

C.R.P. (NPD) (MD) No.128 of 2015

Dated: 30.01.2015

sml

PBK 02/02/2015 ::2P-4C: (IT)