

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM

**THE HON' BLE MR.JUSTICE K.K.SASIDHARAN**

Civil Revision Petition (PD) No.2394 of 2016

1. M/s. TRW Streeing Systems Ltd.,  
Represented by Power Agent / Subrogee,  
M/s. United India Insurance Co. Ltd.,  
Represented by its Principal Officer /  
Divisional Manager
  2. M/s. United India Insurance Co. Ltd.,  
Represented by its Principal Officer /  
Divisional Manager
- .. Petitioners

Versus

M/s. Mahalakshmi Logistics Pvt. Ltd., .. Respondent

**Prayer:** Petition filed under Article 227 of the Constitution of India, against the fair and decreeral orders, dated 18.04.2016, passed in the memo filed by the defendants in O.S.No.433 of 2013 on the file of the learned VII Assistant City Civil Judge, Chennai, by allowing the above Civil Revision Petition.

For Petitioners : Mr. Nageswaran  
For Respondent : Mr. B.Srinivasan

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**ORDER**

The petitioners made an attempt before the Trial Court to mark the surveyor's report without examining the surveyor. The respondent, therefore, filed a memo before the Court, to record the objections. The learned Trial Judge considered the memo and

passed an order, negating the request made by the petitioners to mark the surveyor's report, without examining the surveyor. The said order is under challenge in this Civil Revision Petition.

2. The learned counsel for the petitioners submitted that the Insurance Company has complied with the legislative mandate, as contained under Section 64 (UM) (2) of the Insurance Act, 1938. It was only to present the said fact, the Surveyor's Report was sought to be produced before the Trial Court. According to the learned counsel, after examining the Officials of the Insurance Company, the Surveyor would be examined to mark the Report. According to the learned counsel, the learned Trial Judge was not correct in dismissing the prayer to mark the document on the ground that only through the Author it can be marked.

3. I have heard the learned counsel for the respondents also.

4. The petitioners have complied with the statutory requirement by appointing a Surveyor to survey the damages said to have been sustained by the respondent. The petitioners wanted to adduce evidence before the trial court with respect to the entrustment of the matter with the Surveyor and preparation of

surveyor's report.

5. The learned Trial Judge was correct in her observation that the surveyor's report has to be marked through the Surveyor, as otherwise, it would deny the respondent an opportunity to cross-examine the witness with reference to the report. Now that the petitioners are prepared to examine the Surveyor for the purpose of marking the Surveyor's Report, there is no difficulty to permit the witness on the side of the petitioners to give evidence with respect to the entrustment of the matter with the Surveyor and preparation of Surveyor's Report. In short, the petitioners are at liberty to adduce evidence with respect to the entrustment of the matter with the Surveyor for survey in accordance with the legislative mandate, as contained under Section 64 (UM) (ii) of the Insurance Act, 1938. However, it is made clear that the Surveyor's report would be marked only through the Surveyor. It is needless to mention that a reasonable opportunity should be given to the respondent to cross-examine the Surveyor with reference to the Surveyor's Report.

6. This Civil Revision Petition is disposed of with the above clarification and direction. No costs.

08.09.2016

Index :Yes/No.  
Internet:Yes/No.  
srk

To

1. VII Assistant City Civil Judge, Chennai

**K.K.SASIDHARAN, J.,**

srk

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