

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4111 of 2014
and M.P.No.1 of 2014

The Branch Manager
The Oriental Insurance Co. Ltd.
Branch office, No.3L
Siddhaveerappachetty street
Dharmapuri Town and District.

.. Petitioner

Vs.

1.Chinnapappa
2.Mariappan
3.Semmalar
4.Rami

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 23.06.2014 made in I.A.SR.No.140 of 2014 in M.C.O.P.No.52 of 2013 on the file of the Special District Court, Krishnagiri.

For Petitioner : Mr.S.Arunkumar

For Respondents : Mr.C.Prabakaran

ORDER

The Civil Revision Petition is filed against the order dated 23.06.2014 made in I.A.SR.No.140 of 2014 in M.C.O.P.No.52 of 2013 on the file of the Special District Court, Krishnagiri.

2. The petitioner is second respondent and respondents are the claimants in M.C.O.P.No.52 of 2013 on the file of the Special District Court, Krishnagiri. In the said claim petition, notice was served on the petitioner/Insurance Company. The petitioner did not appear and contest the said M.C.O.P. The petitioner was set exparte and exparte award was passed directing the petitioner and first respondent in M.C.O.P./owner of the vehicle jointly and severally to pay a sum of Rs.9,64,000/- to the respondents. The petitioner filed I.A.SR.No.140 of 2014 to condone the delay of 370 days in filing the application to set aside the exparte award.

3. According to the petitioner, notice was received by the branch office and the same was sent to the Divisional office and got misplaced with other papers. Therefore, they could not appear and contest the said M.C.O.P. and prayed for condoning delay. The

Tribunal by order dated 23.06.2014 rejected the application on the ground that award is not an exparte award and the same was passed only after contest.

4. Against the said order dated 23.06.2014 made in I.A.SR.No.140 of 2014, the present Civil Revision Petition is filed by the petitioner/Insurance Company.

5. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

6. The learned counsel for the petitioner submitted that as far as the petitioner is concerned, it is only an exparte award. The first respondent in claim petition, who is the owner of the vehicle violated the policy condition and no one have put forth the case before the Tribunal for proper adjudication. He also submitted that the petitioner is willing to deposit a sum of Rs.5,00,000/- to the credit of M.C.O.P. and the petitioner may be given an opportunity to contest M.C.O.P. to put forth their case on merits, without deciding the issue as to whether award passed by the Tribunal can be set aside as exparte award or not.

7. In view of the above submissions made by the learned counsel for the petitioner, the Civil Revision Petition is allowed by setting aside the award passed by the Tribunal dated 23.06.2014 made in I.A.SR.No.140 of 2014. The petitioner is directed to deposit a sum of Rs.5,00,000/- to the credit of M.C.O.P.No.52 of 2013 and file counter statement within a period of four weeks from the date of receipt of a copy of this order. The Tribunal is directed to number the application for condonation of delay and consider the same and pass orders on merits and in accordance with law, after issuing notice to all the parties including the owner of the vehicle and the Tribunal is directed to dispose M.C.O.P.No.52 of 2013 within a period of three months thereafter. If the petitioner fails to deposit the said amount within the time limit fixed by this Court, the Civil Revision Petition will stand dismissed confirming the order of the Tribunal dated 30.04.2013. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
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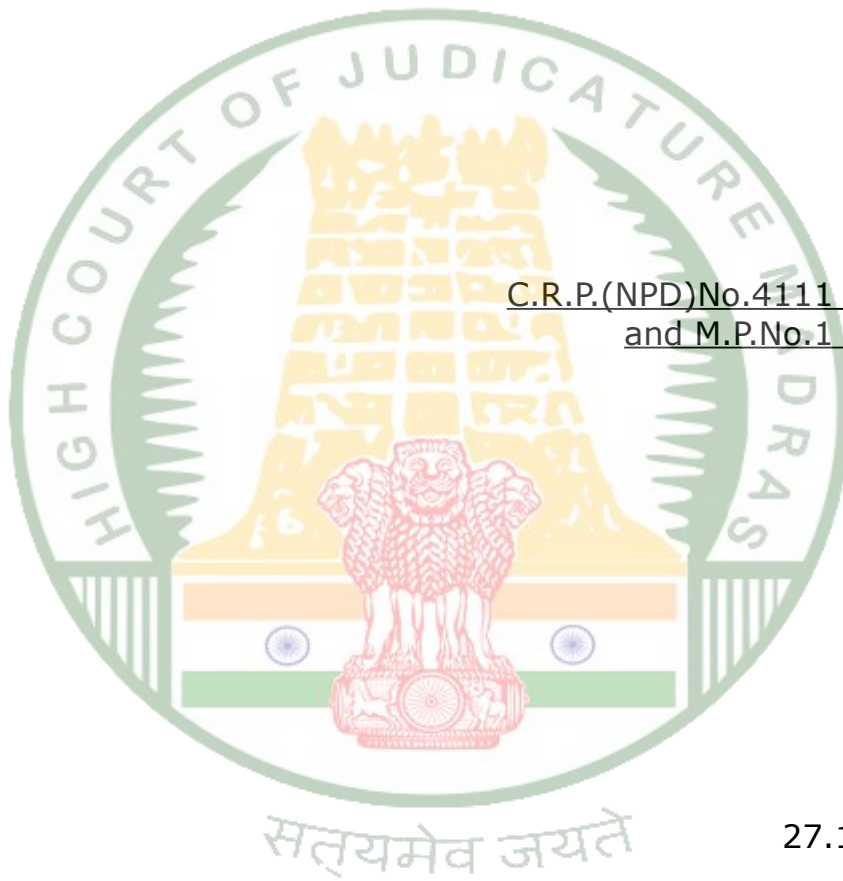
The Special District Judge, Krishnagiri.



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V.M.VELUMANI, J.

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