

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.1876 of 2011
& M.P.No.1 of 2011

G.Kanagaraj

...

Petitioner

Vs.

1.M.Balasubramanian

2.Velamma

3.Vanitha

4.M/s.Royal Sundaram Insurance Co. Ltd.,
By-pass Road,
Chennai

5.The Garditite Factory,
By its General Manager
Avarankadu,
The Nilgiris.

6.Sethumadavan

[Notice to respondents 4 to 6
not necessary]

...

Respondents

सत्यमेव जयते

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 15.11.2010 made in EP No.20 of 2009 in MCOP No.2054 of 2005 on the file of the Additional District Sessions Court/Fast Track Court No.3, Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondents : N.Vijayaraghavan for R4

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 15.11.2010 made in EP No.20 of 2009 in MCOP No.2054 of 2005 on the file of the Additional District Sessions Court/Fast Track Court No.3, Coimbatore.

2. The petitioner is the first respondent, the respondents 1 to 3 are petitioners and the respondents 4 to 6 are respondents 2 to 4 in MCOP No.2054 of 2005. The respondents 1 to 3 filed claim petition in MCOP No.2054 of 2005 claiming a sum of Rs.10,00,000/- as compensation for the death of their father who died in the accident that took place on 06.10.2004. The petitioner did not appear and contest the case. 4th Respondent appeared and contested the case. Respondents 5 & 6 remained exparte.

3. The Tribunal, by order dated 18.07.2007 awarded a sum of Rs.3,30,304/- as compensation alongwith interest @ 7.5% per

annum and directed the petitioner to pay the said amounts to the respondents 1 to 3. Since the petitioner did not pay the compensation amount to the respondents 1 to 3, they filed EP No.20 of 2009 for arrest and detention of the petitioner into civil prison. According to the respondents 1 to 3, the petitioner is owning a scooter bearing Regn.No.TN 38 X 4016 worth Rs.30,000/- and he is doing building contract business and earning a sum of Rs.50,000/- per month. The petitioner is also owning immovable property at No.132 to 134, Periyar Street, Rathinapuri Kovai.

4. The petitioner filed counter and denied all the averments and submitted that he has no means to pay the compensation amount to the respondents 1 to 3. The award is an exparte award and he has filed application to set aside the exparte award. The learned Judge, considering the pleadings, averments and the materials on record, rejected the contention of the petitioner and allowed the EP ordering arrest holding that the petitioner has not substantiated his contention that he is not having sufficient means to pay the compensation amount.

5. Against the order dated 15.11.2010 made in EP No.20 of 2009 in MCOP No.2054 of 2005, the present Civil Revision Petition has been filed.

6. Heard Mr.N.Manokaran, learned counsel appearing for the petitioner as well as Mr.N.Vijayaraghavan, learned counsel appearing for the 4th respondent and perused the materials available on record.

7. The contention of the learned counsel for the petitioner is that without issuing Show Cause Notice as to why the petitioner should not be arrested and detained in Civil Prison, no order of arrest can be passed straightaway. In support of his contention, he relied on the judgments of this Court reported in **2006 (3) CTC 546 [Ganesh v. Sankaran and anr.]** and **2014 (1) MWN (Civil) 396 [Arumugham v. Muthukumaraswami]** and submitted that the Tribunal has not followed the procedures before allowing the EP ordering arrest against the petitioner.

8. This contention of the learned counsel for the petitioner are without merits. EP is filed for arrest and detention of the petitioner in Civil Prison, if he fails to pay the compensation amounts awarded, to the respondents 1 to 3. When notice is issued and served on the petitioner in EP, that itself is deemed to be a Show Cause Notice. The learned Judge has given valid reason for allowing the EP and ordering arrest against the petitioner. In the said circumstances, there is no irregularity or illegality in the order impugned in this revision warranting interference by this Court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.09.2017

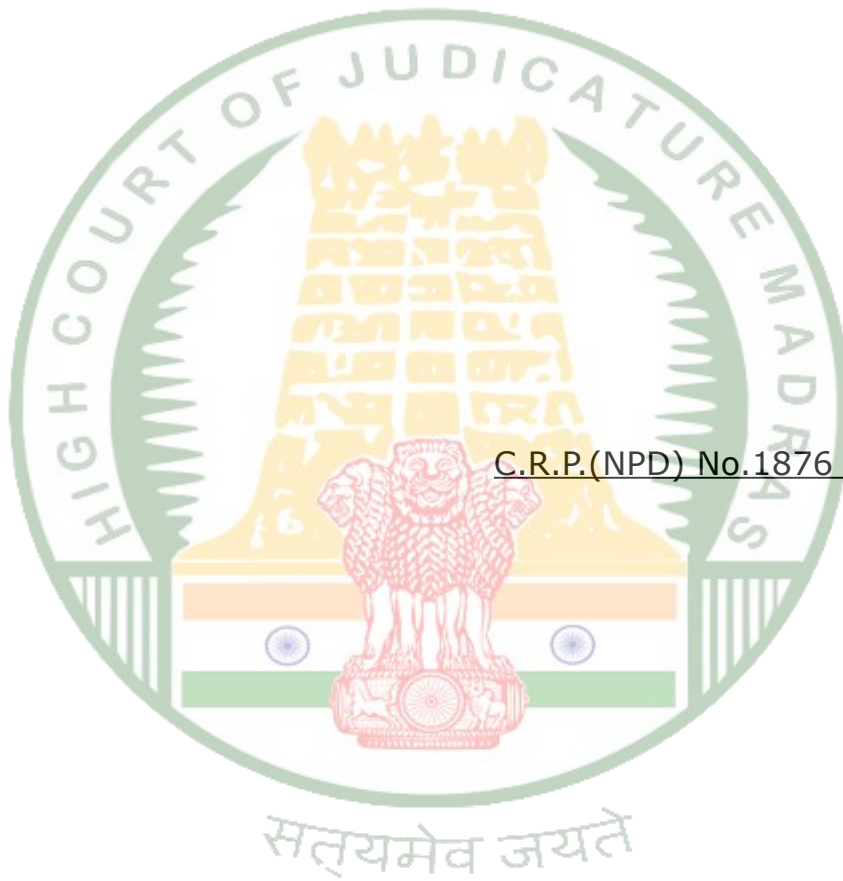
rg
Index: Yes/No

To
The Additional District Sessions Court
Fast Track Court No.3,
Coimbatore.

WEB COPY

V.M.VELUMANI, J.

rgr



C.R.P.(NPD) No.1876 of 2011

WEB COPY 04.09.2017