

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2217 of 2011

The National Insurance Company Ltd
Branch Office, Dharampeth,
Lakmi Bhavan Square,
Nagapur Rep By Senior Divl. Manager,
Namkal

.. Petitioner

Vs.

1. K.Ravi
2. M/o Oriental Insurance Co Ltd.
Vidhan Bhavan Square,
Civil Lines,
Nagapur – 440 001.
(Proposed party)

.. Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, against the fair and decretal order dated 26.08.2010, made in I.A.No.156 of 2010, in M.C.O.P.No.684 of 2005 on the file of the Motor Accidents Claims Tribunal, (FTC), Namakkal.

For Petitioner : Mr.G.Udayasankar

ORDER

This civil revision petition has been filed against the fair and decretal order dated 26.08.2010, made in I.A.No.156 of 2010, in M.C.O.P.No.684 of 2005 on the file of the Motor Accidents Claims Tribunal, (FTC), Namakkal.

2. The petitioner is second respondent, first respondent is the petitioner in M.C.O.P.No.684 of 2005, on the file of the Motor Accidents Claims Tribunal, (Fast Track Court), Namakkal. The first respondent filed the said claim petition, claiming a sum of Rs.5,00,000/- against the petitioner and one Jagirsingh, the owner of the vehicle, for the injury sustained by him in the accident that occurred on 12.12.2003.

3. According to the first respondent, one Jagirsingh, is the owner of the vehicle and petitioner is insurer of the vehicle involved in the accident. The petitioner filed I.A.No.156 of 2010 to implead the second respondent herein, as third respondent in M.C.O.P.No.684 of 2005. According to the petitioner, Jagirsingh has purchased the vehicle on 05.02.2003 and insured the vehicle with

the petitioner on 05.02.2003. The previous owner S.Baljinder Singh insured the vehicle with second respondent herein and said insurance policy was in force till 02.01.2004. In view of the two policies for the same vehicle, on the date of accident, the second respondent is also necessary party and he is also liable to pay the compensation.

4. The second respondent filed counter and opposed the said application and submitted that on the date of accident, the owner of the vehicle insured the vehicle with the petitioner. The petitioner has not denied that he is not the insurer of the vehicle on the date of accident. It is for the claimant to decide against whom to file claim petition and respondent cannot dictate as to who are made to be parties.

5. The learned Judge, considering the averments in the affidavit, counter affidavit and relying on the judgment reported in **(1984) 2 MLJ 12 (Andhra Marine Exports (P) Ltd., Aulon and another V. P.Radhakrishnan and others)**, dismissed the application holding that it is for the claimant to decide against whom the claim petition is to be filed and petitioner is not entitled to

implead other respondent.

6. Against the said order of dismissal dated 26.08.2010, made in I.A.No.156 of 2010, in M.C.O.P.No.684 of 2005, the petitioner has come out with the present civil revision petition.

7. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

8. It is not in dispute that Jagirsingh is owner of the vehicle on the date of accident. He has taken insurance policy from the petitioner on 05.02.2003 for the period from 12.12.2003, i.e., the date of accident. The policy issued by the petitioner has no force. In the circumstances, it is not open to the petitioner to contend that second respondent/proposed party also is necessary party on the ground that one policy taken by the previous owner from proposed party was also in force on the date of accident. The first respondent/claimant has claimed compensation from the owner and the petitioner Insurance Company of the vehicle. In the circumstances, the second respondent is not a necessary and proper party.

9. The learned Judge, considering all the above facts and judgment relied on by the counsel for the petitioner, dismissed the application. There is no illegality or irregularity warranting interference with the order of the learned Trial Judge, dated 26.08.2010.

10. Accordingly, the civil revision petition is dismissed. No costs.

Index : Yes/No
gsa

To

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3. The Motor Accidents Claims Tribunal,
Fast Track Court, Namakkal

V.M.VELUMANI, J.

gsa



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**THE HONOURABLE MS.JUSTICE V.M.VELUMANI
RESIDENCE**

C.R.P.No.3901/2013

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI
RESIDENCE**

C.R.P.No.1107/2012



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