

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.474 of 2011
and M.P.No.1 of 2011

Boopathy

.. Petitioner

Vs.

1. Annam

2. Radhakrishnan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 23.11.2010 made in E.P.No.107 of 2007 in M.C.O.P.No.43 of 2000 on the file of the Principal Sub Court, Villupuram.

For Petitioner : Mr. P.Mani

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 23.11.2010 made in E.P.No.107 of 2007 in M.C.O.P.No.43 of 2000 on the file of the Principal Sub Court, Villupuram.

2. The petitioner is the first respondent, first respondent is the claimant and second respondent is the owner of the vehicle in M.C.O.P. No.43 of 2000 on the file of the Principal Sub Court, Villupuram. The first respondent filed the said M.C.O.P against the petitioner and second respondent, claiming a sum of Rs.3,00,000/- as compensation for injuries sustained by her in the accident that occurred on 06.12.1998. The Tribunal by the award dated 13.08.2003 awarded a sum of Rs. 93,973/- as compensation to the 1st respondent together with interest at the rate of 9% p.a from the date of filing of the petition till the payment with proportionate cost and directed the petitioner and second respondent to pay the said amount jointly and severally. The first respondent filed E.P.No.146 of 2004 for realising the amount awarded by the Tribunal Court. The second respondent deposited a sum of Rs.74,770/-, 50% of the amount awarded together with interest and the said E.P. was terminated. The first respondent filed the present E.P.No.107 of 2007 against the petitioner for recovery of the balance amount by auctioning the property mentioned in the E.P. belonging to the petitioner. The petitioner prayed for dismissal of the E.P. on the ground that he has been wrongly impleaded as a party in the claim petition. He did not drive vehicle at the time of the accident. In the

claim petition, it has been stated that one Sasikumar, son of Radhakrishnan drove the tractor. He came to know about the award only when he received the notice in the E.P. No.107 of 2007. The award is jointly and severally directing the petitioner and second respondent to pay the amount. The first respondent ought to have claimed the entire amount from the second respondent. The property mentioned in the above said E.P does not belongs to the petitioner and he is not owning any property.

3. The learned Judge considering the materials on record and the fact that award is joint and several, rejected the contention of the petitioner and ordered sale of the property to realize the amount.

4. Against the said order dated 23.11.2010 made in E.P. No.107 of 2007 in M.C.O.P. No.43 of 2000, the present civil revision petition is filed by the petitioner.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice was served on the second respondent and his name is printed in the

cause list, there is no representation either in person or through counsel.

6. A reading of the award shows that both the petitioner and second respondent are jointly and severally liable to pay the compensation amount awarded. It is open to the petitioner to contend that the first respondent must realize the entire amount from the owner of the tractor. Secondly, the contention of the petitioner that he is not owner of the property mentioned in the E.P. and therefore E.P. is liable to be dismissed on that ground is untenable. If the property does not belong to the petitioner, the owner of the property must come forward for obtaining suitable orders. For the above reason, the civil revision petition is liable to be dismissed.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.08.2017

Index : Yes/No
lbm

To

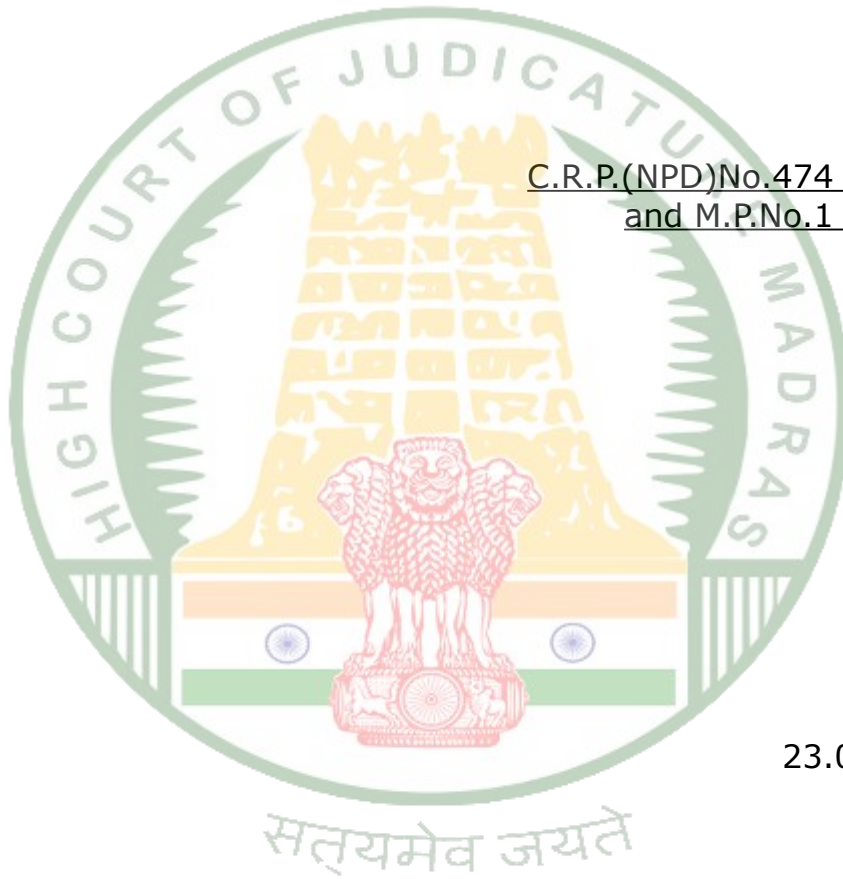
The Principal Subordinate Judge, Villupuram.



WEB COPY

V.M.VELUMANI, J.

lbm



C.R.P.(NPD)No.474 of 2011
and M.P.No.1 of 2011

23.08.2017

WEB COPY