

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2642 of 2010
and M.P.No.1 of 2010

1.S.Ravi
2.M.Ravikumar

.. Petitioners

Vs.

S.K.Sampath

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., against the fair and decretal order dated 08.06.2010 made in I.A.No.11 of 2010 in M.C.O.P.No.210 of 2003 on the file of the Sub-Court, Sathyamangalam, Erode District.

For Petitioners : Mr.I.C.Vasudevan

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 08.06.2010 made in I.A.No.11 of 2010 in M.C.O.P.No.210 of 2003 on the file of the Sub-Court, Sathyamangalam, Erode District.

2. The petitioners are the respondents and respondent is the first petitioner/first claimant in M.C.O.P.No.210 of 2003 on the file of the Sub-Court, Sathyamangalam, Erode District. The respondent and other claimants filed the said M.C.O.P. claiming a sum of Rs.5,00,000/- as compensation for the death of their father in the accident occurred on 26.01.2002. The petitioners are the driver and owner of the vehicle respectively. The said claim petition was dismissed for default on 05.11.2004. The respondent filed I.A.No.11 of 2010 to condone the delay of 627 days in filing the application to restore the claim petition.

3. According to the respondent, he was looking after the claim petition on behalf of the other claimants. As he was suffering from diarrhoea, he could not attend the hearing.

4. The petitioners filed counter affidavit and submitted that the respondent has not given any valid reason for condonation of delay.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record, allowed the

application directing the respondent to deposit a sum of Rs.1,000/- as costs. The petitioners refused to receive the same and the said amount was deposited into the Court.

6. Against the order dated 08.06.2010 made in I.A.No.11 of 2010, the present civil revision petition is filed by the petitioners.

7. Heard the learned counsel for the petitioners and perused the materials on record.

8. The respondent and other claimants filed claim petition claiming compensation for the death of their father in the accident that was occurred on 26.01.2002. The said claim petition was dismissed for default. The respondent filed I.A.No.11 of 2010 to restore the same. The learned Judge allowed the application imposing costs on the respondent by holding that the claim petition is filed by the respondent and other claimants for the death of their father in the accident occurred on 26.01.2002. In the interest of justice, an opportunity must be given to the claimants to put forth their case.

9. In the circumstances, the learned Judge rightly allowed the application and the order passed by the learned Judge does not warrant any interference. The learned counsel for the petitioners submitted that the fourth claimant viz., S.K.Parthiban, in M.C.O.P.No.210 of 2003 died. Without impleading his legal heirs, the respondent has filed the said application to restore M.C.O.P.

10. In the result, the Civil Revision Petition is dismissed. It is open to the respondent to bring the legal heirs of the fourth claimant on record in M.C.O.P.No.210 of 2003. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No

kj

31.07.2017

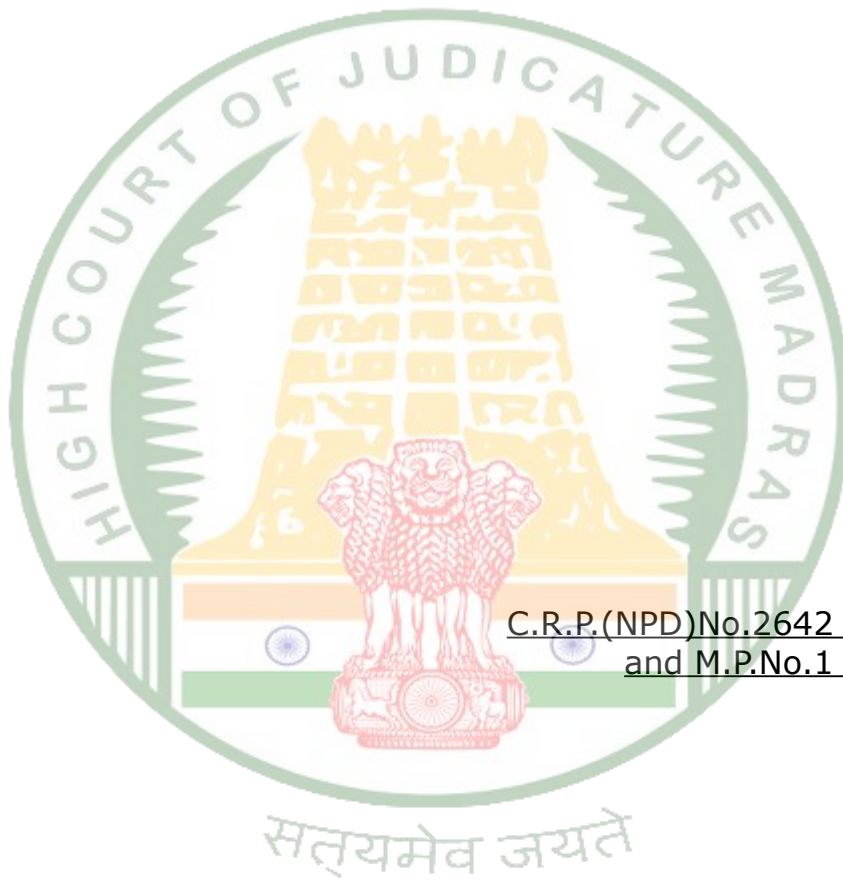
To

The Subordinate Judge, Sathyamangalam
Erode District.

WEB COPY

V.M.VELUMANI, J.

kj



C.R.P.(NPD)No.2642 of 2010
and M.P.No.1 of 2010

WEB COPY

31.07.2017