

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2863 of 2008
& M.P.No.1 of 2008

National Insurance Co.Ltd.,
Chennai-2.

.. Petitioner

Vs.

1.M.Sundarrajan
2.N.K.Damodaran

3.The Oriental Insurance Co. Ltd.,
Thiruvallur.

4.Kumarasamy

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the orders dated 28.09.2007 made in I.A.No.77 of 2005 in M.C.O.P.No.245 of 2002 on the file of Motor Accidents Claims Tribunal, Fast Track Court No.IV, Poonamallee.

For Petitioner : Mr.N.Vijayaraghavan

For R1 : Batta Due

For R2 to R4 : Exparte

ORDER

This Civil Revision Petition has been filed against the orders dated 28.09.2007 made in I.A.No.77 of 2005 in M.C.O.P.No.245 of 2002 on the file of Motor Accidents Claims Tribunal, Fast Track Court No.IV, Poonamallee.

2. The petitioner is the fourth respondent, the first respondent is the petitioner and the respondents 2 to 4 are the respondents 1 to 3 in M.C.O.P.No.245 of 2001. The first respondent filed M.C.O.P.No.245 of 2001 before the Motor Accidents Claims Tribunal at Poonamallee claiming compensation for the injuries sustained by him in an accident that occurred on 24.10.2001.

3. According to the first respondent, the vehicle involved in the accident was insured with the petitioner at the time of accident. The first respondent during the trial produced the policy alleged to have been issued to the petitioner for the period from 25.08.2001 to 25.08.2002. Tribunal considering all the materials, passed an award directing the petitioner to pay the compensation to the first respondent. The petitioner did not pay the compensation.

4. The first respondent filed Execution Petition to execute the award. Only at that time the petitioner filed I.A.No.77 of 2005 to re-open the case and to set aside the award dated 18.07.2003. According to the petitioner, the policy produced by the first respondent is not a genuine one and it was not issued by the petitioner. A fraud has been played on the Court and therefore prayed for re-opening the case and to set aside the award.

5. The first respondent filed counter and submitted that the policy produced by him is a genuine one and the petitioner after one year of filing M.C.O.P.No.245 of 2001, filed counter affidavit and did not raise this issue and prayed for dismissal of the I.A.No.77 of 2005.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record dismissed the application on the ground that the Tribunal cannot Suo-motu reopen the case already decided four years ago and allowed the petitioner to conduct the trial and also held that it will create multiplicity of the proceedings.

7. Against the order of dismissal dated 28.09.2007 made in I.A.No.77 of 2005 in M.C.O.P.No.245 of 2002, the present civil revision petition is filed by the petitioner.

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

9. The learned counsel for the petitioner submitted that when a fraud played on the Court, at any time proceedings can be re-opened and relied on the judgment reported in 2000 ACJ 1032(United India Insurance Co.Ltd. Vs. Rajendra Singh and others).

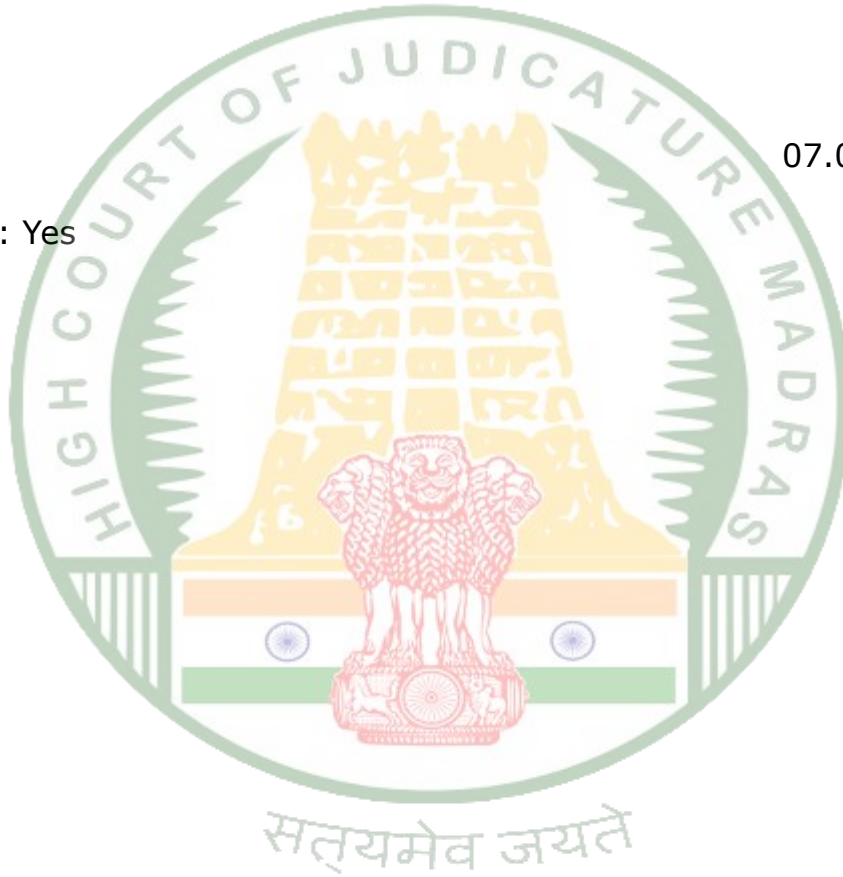
10. This civil revision petition is of the year 2008. The registry has stated that third batta is due for the first respondent for want of correct address and private notice was ordered. No affidavit of service is filed. This shows, for the past nine years the petitioner has not taken effective steps to serve the first respondent, who is a contesting respondent in the civil revision petition. In view of this fact without deciding the issue on merits, the civil revision petition is

dismissed.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2017

Index : Yes
dm/gsa



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V.M.VELUMANI, J.

dm

To

The Motor Accidents Claims Tribunal,
Fast Track Court No.IV, Poonamallee.



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