

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.3630 OF 2013

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 11.07.2013, in I.A.No.860 of 2013 in O.P.No.969 of 2011 on the file of I Additional District Judge, West Godavari District, Eluru, whereby the Court below dismissed the petition.

2. The case of the petitioner before the Tribunal is that the policy, which is relied upon by the respondents, is only an act policy not covering the liability of passengers travelling in the vehicle. But, initially the petitioner has not raised the said plea before the Tribunal and he filed the petition under Section 151 of Code of Civil Procedure, 1908 (for short, 'CPC') seeking permission of the Court to file additional counter.

3. Respondents filed counter denying the material allegations, *inter alia* contending that the provisions of CPC are not applicable to Motor Vehicles Act permitting the insurance company to file additional written statement or counter, the petitioner is not entitled to leave of the Court to file additional pleadings or subsequent pleadings and prayed for dismissal of the petition.

4. The Tribunal, after considering rival contentions, concluded that the petitioner is not entitled to file subsequent or additional pleadings as the provisions of CPC have no application to the proceedings before the Motor Accidents Claims Tribunal.

5. Aggrieved by the said order, the present revision is filed on various grounds.

6. The main contention of learned counsel for the petitioner is that admittedly O.P.No.969 of 2011 filed by the 1st respondent was disposed of by the Tribunal on 02.03.2015. Against the said order, the petitioner-insurance company filed an appeal before this Court and the same is pending and he requested to list this revision petition along with the said appeal. But, the same cannot be accepted as the petition itself is not maintainable in view of the bar under Rule 473 of the Motor Vehicles Rules, which prohibits the Tribunal to apply the provisions of CPC, except for the purpose mentioned under the Rules to decide the claims before the Motor Accidents Claims Tribunal. Filing of additional pleadings or subsequent written statement, which is in the nature of subsequent pleadings under Order VIII Rule 9 CPC, can be received only after granting leave to the petitioner. Here, the petitioner filed petition under Section 151 CPC though provisions of CPC are not applicable while deciding the claims under M.V. Act. The petitioner's counsel did not show any other reason to accept his contention including Rule 473 of A.P. Rules framed under the Act. In the absence of any leave for filing an application under Order VIII Rule 9 CPC, the petition is not maintainable and in such a case, listing this petition along with M.A.C.M.A. is only a futile exercise. Therefore, I find no ground to allow this petition or list this petition along with appeal pending before this Court. However, liberty is given to the petitioner to file appropriate application before the appellate Court, if law permits.

7. The Civil Revision Petition is dismissed granting liberty as stated above. Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

JULY 25, 2017

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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



CIVIL REVISION PETITION NO.3630 OF 2013

Date: 25.07.2017

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