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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 4253 of 2017

Date of Decision: 31.07.2017

Meena Kumari

... Petitioner

Versus

Akhlesh Singh @ Atulesh Singh and others ...Respondents

CORAM : HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Mr. Satbir Rathore, Advocate
for the Petitioner.
Mr.Rajeev Dev Sharma, Advocate
for the respondent no.1.
Mr.Sanjeev Goyal, Advocate
for the respondent no.3

Raj Mohan Singh, J.(Oral)

Learned counsel for the petitioner submits that respondent no.2 who is the driver of the offending vehicle namely Karam Chand was ex-parte before the Tribunal, therefore, service qua him be dispensed with. Ordered accordingly.

On 04.07.2017, the following order was passed :-

“ Learned counsel for the petitioner contends that the vehicle in question was already sold by the petitioner (respondent No. 2 in the claim petition) in favour of Vipin Kumar vide affidavit dated 21.07.2010. The said affidavit was

attested by Tehsildar and was witnessed by Asha Ram Sharma, Member Zila Parishad. The said Asha Ram Sharma has been examined by the petitioner as RW 2 in the Court on 23.03.2017. Tehsildar has also been examined as RW 3. Prayer in terms of Order 1 Rule 10 CPC has been declined solely on the ground that the vehicle was taken on sapurdari at the instance of the petitioner.

Notice of motion for 31.07.2017.

Till the next date of hearing, passing of final order shall remain stayed.”

It is not disputed that the claim petition filed by respondent no. 1 was against Karam Chand, driver of the vehicle, Meena Kumari owner of the vehicle and the Insurance Company.

As per the case of the petitioner, the vehicle in question was sold by Meena Kumari in favour of Vipin Kumar vide Affidavit dated 21.07.2010. The said affidavit was attested by Tehsildar and was also witnessed by one Aasha Ram Sharma. The Tehsildar as well as Asha Ram Sharma have been examined by petitioner as RW-2 and RW-3 respectively.

The prayer for impleading the subsequent vendee in terms of Order 1 Rule 10 CPC was declined solely on the ground that the vehicle was taken on *sapurdari* at the instance of the petitioner and in

the RC of the vehicle, the name of the petitioner was shown.

Learned Counsel for respondent No.3 has no objection for impleading the subsequent vendee Vipin Kumar as party respondent no.4 in the claim petition.

Having heard the submissions of both sides, I am of the view that Vipin Kumajr S/o Karam Chand is subsequent vendee of the offending vehicle and in any case he is the proper party, having purchased the vehicle by way of affidavit dated 21.07.2017. The factum of execution of aforesaid affidavit was duly witnessed by Asha Ram Sharma and attested by the Tehsildar. The aforesaid witnesses have been examined as RW 2 and RW3 on record.

In order to avoid multiplicity of litigation and also to determine ultimate liability of the owner, impleadment of Vipin Kumar as party respondent no.4 would be in the interest of all concerned.

The Tribunal will go into the ultimate merits of the case on the basis of available material on record. At this stage, I do not see any legal impediment in the way of impleading Vipin Kumar as party respondent no.4.

Consequently , this revision petition is allowed.

[Raj Mohan Singh]
Judge

31.07.2017
Seema