

\$~47

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ C.R.P. 103/2017

SUBHASH YADAV

..... Petitioner

Through: Mr.V.K.Ohri, Advocate

versus

BEENA DEVI & ORS

..... Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

28.04.2017

CM No.16204/2017

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

C.R.P. 103/2017

1. The petitioner has invoked the revisional jurisdiction of this Court feeling aggrieved by the order dated 27th February, 2017 whereby the application filed by him under Order I Rule 10(2) CPC in MACT No.277/12 has been dismissed by the learned Presiding Officer.

2. The application under Order I Rule 10(2) CPC was filed by the petitioner, who is defendant No.1 in the above claim petition, seeking impleadment of Mr.Laxman as one of the respondent, contending that in fact Laxman was the driver of the Dumper Truck No.HR-63A 9672 at the time of the accident, hence, he is a necessary party.

C.R.P. 103/2017

page 1 of 3

3. This application was filed by the petitioner/defendant No.1 seeking impleadment of Laxman after the claimant has closed his evidence. The basis for impleadment of Laxman is the statement made by him (Laxman) in Petition No.10/12 before Presiding Officer, MACT, South District as RW-1.

4. Learned Motor Accidents Claim Tribunal dismissed the application for the following reasons:-

(i) As per the claimant, the applicant/defendant No.1, Subhash Yadav was the driver of the offending vehicle at the relevant time and this fact is established even from the First Information Report.

(ii) The applicant/defendant No.1 was having a valid commercial license which was handed over to the police when he was arrested from the spot.

(iii) The applicant/defendant No.1, Subhash Yadav when examined as RW-2 before PO, MACT, South District in Petition No.10/12 admitted that he was arrested in this case and he had given his commercial driving license to the police. He also admitted that he was facing trial in criminal case for causing this accident, at Gurgaon Court.

5. The averments made in the application under Order I Rule 10(2) CPC for impleadment of Laxman as a party are that Laxman was the driver of the Dumper Truck No.HR-63A 9672 and the petitioner Subhash Yadav was merely a helper on that dumper. The petitioner who is holding a commercial license, is not expected to work as a helper on the Dumper.

6. It is admitted case of the petitioner/applicant that after the accident when he was arrested by the police he handed over his license to the police and he was facing a criminal trial for this accident. The learned trial Court has rightly rejected the prayer of the petitioner/defendant No.1 for impleadment of Laxman as a party merely on the statement of the

applicant/petitioner that Laxman was the driver of the Dumper or that Laxman stated so, as RW-1 in Petition No.10/12.

7. If the Laxman was the driver at the time of accident, this fact should have been informed to the Investigating officer at the time of arrest and while handing over his license and on investigation about who was the driver of the offending vehicle, if Laxman was the driver, he would have faced the criminal trial and not the petitioner.

8. On careful examination of the facts of this case, this Court is of the view that Laxman is neither a necessary nor a proper party for adjudication of this claim. The presence of Laxman is not necessary when the owner of the offending vehicle as well the insurance company have already been impleaded as party. The criminal trial was not faced by Laxman for causing this accident as driver of the offending vehicle.

9. The impugned order does not suffer from any illegality or any infirmity.

10. While exercising revisional jurisdiction, this Court was only required to see whether any jurisdictional error has been committed by the Court below. Once this Court has come to the conclusion that there was no illegality or infirmity in the impugned order, the same does not warrant any interference in exercise of revisional power.

11. The petition is dismissed.

CM No.16205/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

APRIL 28, 2017

'pg'
C.R.P. 103/2017