

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1105 of 2015
and M.P.No.1 of 2015

P.Somasundaram

.. Petitioner

Vs.

1. Annakodi
2.Saranya
3.Sakthivel

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 09.02.2015 made in I.A.No.945 of 2014 in M.C.O.P.No.1285 of 2014 on the file of the Motor Accident Claims Tribunal (First Additional District Court), Tiruppur.

For Petitioner : Mr.E.K.Kumaresan

For R1 : Mr.S.Nagarajan
For R2 & R3 : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 09.02.2015 made in I.A.No.945 of 2014 in M.C.O.P.No.1285 of 2014 on the file of the Motor Accident Claims Tribunal (First Additional District Court), Tiruppur.

2. The petitioner is respondent and the respondents are claimants/petitioners in M.C.O.P.No.1285 of 2014 on the file of the First Additional District Court, Tiruppur. The respondents filed the said claim petition claiming compensation for Rs.30,00,000/- for the death of husband of the first respondent and father of the respondents 2 and 3, who died in the accident that occurred on 16.11.2013. In view of the fact that there is no insurance for the vehicle and only the petitioner will be liable to pay the compensation amount awarded, the respondents filed I.A.No.945 of 2014 under Order XXXVIII Rule 5 C.P.C. for a direction to the petitioner to furnish security for the value of the claim amount of Rs.30,00,000/- failing which, order attachment of the immovable property of the petition mentioned properties. The Tribunal on 07.10.2014 issued notice to the petitioner and directed the petitioner to furnish the security by 07.11.2014. When I.A.No.945 of 2014 was taken up on

07.11.2014, the petitioner entered appearance through one Suresh Kumar, advocate, but did not furnish any security. At request of the learned counsel for the petitioner, the learned Judge adjourned the said application to 09.02.2015. On 09.02.2015, the petitioner did not furnish security and the Tribunal ordered attachment as the petitioner did not furnish security.

3. Against the said order dated 09.02.2015 made in I.A.No.945 of 2014 in M.C.O.P.No.1285 of 2014, the present Civil Revision Petition is filed by the petitioner.

4. Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record.

5. The learned counsel for the petitioner made various submissions on merits. The contention of the learned counsel for the petitioner is that the Tribunal without issuing notice to the petitioner to furnish security, passed the impugned order in a mechanical manner, which is in contravention of provisions of Order XXXVIII C.P.C. and the Tribunal has ordered attachment without complying with the mandatory provisions. The said contention is factually incorrect.

6. From the materials available on record, it is seen that the

Tribunal ordered notice to the petitioner on 07.10.2014 and directed him to furnish security on 07.11.2014. The petitioner failed to comply with the said order and then only, the Tribunal ordered attachment. Even in the grounds of Civil Revision Petition, the petitioner has not stated that he has no intention of alienation of immovable property in question. He has not given any undertaking that he is not alienating the property. I find no infirmity in the order passed by the Tribunal ordering attachment of immovable property. It is open to the petitioner to furnish security to the satisfaction of the Tribunal and seek for raising attachment.

7. In the result, the Civil Revision Petition is dismissed. As the M.C.O.P. is of the year 2014, the Tribunal is directed to dispose of M.C.O.P.No.1285 of 2014 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

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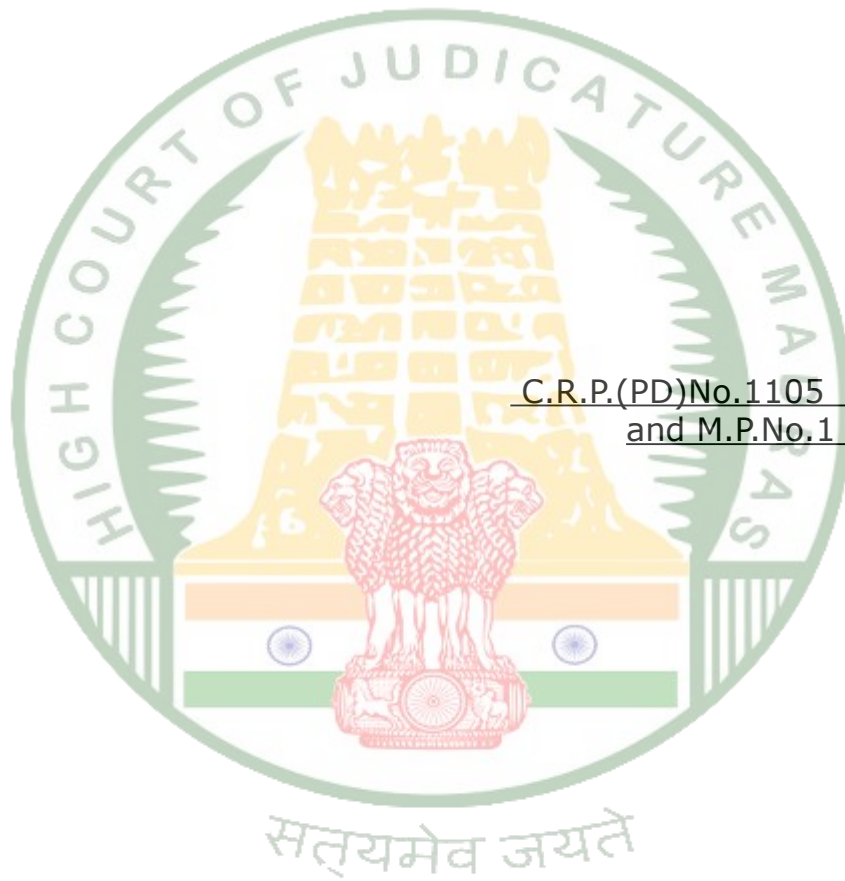
The Motor Accident Claims Tribunal
(First Additional District Judge), Tiruppur.



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V.M.VELUMANI,J.

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