

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.23487 of 2009

B.S.Ramesh

.. Petitioner

-vs-

1. The Child Development Project Officer
ICDS Scheme
Poondi
Tiruvallur District

2. The Child Development Project Officer
ICDS Scheme
Madhanoore
Vellore District

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records pertaining to the order passed by the first respondent in his proceedings in Na.Ka.No.487/07 dated 12.08.2009 and quash the same.

For Petitioner :: Mr.S.Mohan

For Respondents :: Mr.K.Ravikumar
Additional Government Pleader

ORDER

This writ petition has been filed questioning the impugned order dated 12.8.2009 passed by the first respondent directing the petitioner to pay a sum of Rs.82,750/- along with interest at the rate of 7.5% per annum, on the ground that the petitioner was not even issued with any notice whatsoever.

2. Learned counsel for the petitioner, challenging the reasons given in the impugned order calling upon the petitioner to pay a sum of Rs.82,750/- along with interest as mentioned above, stated that the petitioner was not at all liable for payment of the aforesaid amount, because he has not caused the accident nor caused damages to anyone. According to the petitioner, while he was driving the Jeep bearing Registration

No.TN 21 G 1053 from Poonamallee towards Chennai on 5.3.2007, three persons intercepted his Jeep near Gajapathy Petrol Bunk, Velappanchavadi and sought for help to take an injured person to a hospital. Since the petitioner wanted to help, he took the injured person in the Jeep to Sri Ramachandra Medical Hospital, Porur for first aid. Only taking advantage of his humanitarian help, the person who accompanied the injured viz., Mr.N.Somasundaram had taken note of the registration number of the Jeep driven by the petitioner and filed the M.C.O.P.No.4759 of 2000 on the file of the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai and a finding was given against him as though the petitioner was responsible for causing the accident. However, a counter affidavit was filed by the District Project Nutrition Officer, Kancheepuram specifically denying the liability and also denied the accident said to have taken place at the instance of the petitioner. Therefore, when a counter affidavit has been filed by the respondents defending the case of the petitioner that he was not responsible for the accident or the damage while driving the Jeep, it is not open to them to take a 'U' turn and after paying the compensation as per the award passed by the Motor Accidents Claims Tribunal, the petitioner cannot be compelled to pay the said amount, because he was not even issued with any notice whatsoever.

3. But this Court is unable to find any merit or justification on his denial. The reason being, when the injured made a claim in M.C.O.P.No.4759 of 2000 on the file of the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai, the petitioner was arrayed as a party respondent. But, he has contested the case by adopting the counter affidavit filed by the District Project Nutrition Officer, Kancheepuram without filing any separate counter affidavit. However, the Motor Accidents Claims Tribunal, dealing with the issue whether the accident happened due to the rash and negligent driving of the driver of the Jeep bearing Registration No.TN 21 G 1053, namely, the petitioner, has given a finding against him that when the First Information Report was registered against the petitioner, he has not given any cross complaint against the person who had given the complaint against him. Moreover, the petitioner has not taken any steps to give a counter complaint. On this score, the Motor Accidents Claims Tribunal has come to the conclusion that the petitioner was fully aware of the First Information Report being registered against him and from the evidence it was further seen that the police had refused to erase the First Information Report registered against the petitioner. Since the petitioner has not taken sufficient steps to disprove the filing of the First Information Report, the Motor Accidents Claims Tribunal came to the conclusion that the second respondent therein, namely, the petitioner, who is the employee of the first respondent, was fully responsible for the accident.

Therefore, when the Motor Accidents Claims Tribunal has given a finding against the petitioner, while passing the award in M.C.O.P.No.4759 of 2000 on 15.11.2007, that was not even questioned by way of filing appeal by the petitioner, it is not justified on the part of the petitioner to say that he was not issued with any notice, because notice is not at all required to be issued to him by the Department, when he was already arrayed as a party in the claim petition and he has also contested the matter unsuccessfully. Hence, this Court finds no merit in the writ petition, because the respondents 1 & 2 herein have paid the amount to the victim of the accident on behalf of the petitioner and are justified in recovering the said amount from the petitioner. Accordingly, the writ petition fails and it is dismissed. Consequently, M.P.Nos.1 of 2009 and 1 of 2010 are also dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Child Development Project Officer
ICDS Scheme
Poondi
Tiruvallur District
2. The Child Development Project Officer
ICDS Scheme
Madhanoore
Vellore District

+1 cc to Mr.S.Mohan, Advocate, S.R.No.33193

+1 cc to the Government Pleader, S.R.No.34771

SPD(CO)
SSM(10/05/2019).

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