

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

C O R A M

THE HON'BLE Mr.JUSTICE ABDUL QUDDHOSE

C.R.P.(PD) No.3019 of 2014 &
M.P.No.1 of 2014

N.Murali

... Petitioner

Vs.

1.Kanniyammal
2.E.Shanmugam

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgment and Decree dated 21.01.2014 and made in I.A.No.658 of 2013 in MCOP.No.274 of 2010 on the file of the Before the Motor Accident Claims Tribunal, Ponneri (IV Additional District Judge, Ponneri)

For Petitioner

...

Mr.F.Terry Chellaraja

For Respondents

...

No appearance

ORDER

The instant civil revision petition has been filed challenging the order dated 21.01.2014 passed by the learned Motor Accident Claims

Tribunal (IV Additional District Judge), Ponneri in I.A.No.658 of 2013 in MCOP.No.274 of 2010.

Brief facts leading to the filing of the instant revision under Article 227 of the Constitution of India:

2. The petitioner is the respondent in MCOP.No.274 of 2010 filed by the first respondent before the Motor Accident Claims Tribunal (IV Additional District Judge), Ponneri. The first respondent sustained injuries as a result of an accident that took place on 20.06.2009 caused by a vehicle allegedly owned by the petitioner. The first respondent filed MCOP.No.274 of 2010 against the petitioner seeking compensation of Rs.5,00,000/- under Section 166 of the Motor Vehicles Act. During the pendency of MCOP.No.274 of 2010, the first respondent/claimant filed an application under Order I Rule 10(2) CPC in I.A.No.658 of 2014 seeking to implead the second respondent as a party to MCOP.No.274 of 2010. According to her, it was brought to her knowledge, after the filing of MCOP.No.274 of 2010 that the second respondent is the real owner of the vehicle which was involved in the accident and therefore, it became necessary for her to seek impleadment of the second respondent.

3. A counter affidavit has also been filed by the second respondent/proposed party in I.A.No.658 of 2014 disputing the fact that he is the owner of the vehicle and denying the allegations contained in the affidavit filed in support of I.A.No.658 of 2014. By order dated 21.01.2014 in I.A.No.658 of 2014, the Tribunal dismissed the application I.A.No.658 of 2014 filed by the first respondent/claimant on the ground that no proof has been produced neither by the petitioner nor by the first respondent to show that the second respondent is the registered owner of the vehicle on the date of the accident. Aggrieved by the dismissal of I.A.No.658 of 2014, the petitioner who is the respondent in MCOP.No.274 of 2010 has preferred this revision under Article 227 of the Constitution of India.

4. Heard Mr.F.Terry Chellaraja, learned counsel for the petitioner. Despite service of notice and the names of the respondents having been printed in the cause list today, no one has entered appearance on their side.

Discussion:

5. This Court has perused and examined the impugned order rejecting the impleading application filed by the first respondent/claimant seeking to implead the second respondent as a party in MCOP.No.274 of 2010. Even though the delivery note dated 22.05.2006 was marked as an exhibit on the side of the respondent in I.A.No.658 of 2013 which discloses the fact that the said delivery note was allegedly issued by the second respondent/proposed party in I.A.No.658 of 2013 confirming that he has purchased the vehicle and he has taken delivery of the same on 22.05.2006 itself, the Trial Court has overlooked the same and has rejected the impleading application.

6. Further, in the claim petition filed in MCOP.No.274 of 2010 in column 16(a), the first respondent/claimant has mentioned the name of the second respondent/proposed party as a driver of the vehicle involved in the accident. It is the contention of the petitioner that Shanmugam, the second respondent/proposed party is the real owner as the first respondent sold the vehicle to him as evidenced by the delivery

note dated 22.05.2005 which has also been marked as an exhibit in the impugned order. However, without considering all these documents, the Trial Court has erroneously come to the conclusion that no documentary evidence has been produced by the parties to prove the ownership of the vehicle which was involved in the accident.

7. This Court is of the considered view that the Trial Court ought to have allowed the impleading application based on the delivery note as well as based on the averments made by the first respondent/claimant in the claim petition filed in MCOP.No.274 of 2010.

8. For the foregoing reasons, the impugned order dated 21.01.2014 passed by the learned Motor Accident Claims Tribunal (IV Additional District Judge), Ponneri in I.A.No.658 of 2013 in MCOP.No.274 of 2010 has to be set aside and the second respondent/proposed party has to be impleaded as the second respondent in MCOP.No.274 of 2010 filed by the first respondent. In the considered view of this Court, only after trial it can be found out as to whether the first respondent or the second respondent is the real owner.

Conclusion:

9. In the result, the impugned order dated 21.01.2014 passed by the learned Motor Accident Claims Tribunal (IV Additional District Judge), Ponneri in I.A.No.658 of 2013 in MCOP.No.274 of 2010 is hereby set aside and the second respondent is impleaded as the proposed second respondent in MCOP.No.274 of 2010. Accordingly the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2019

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Index : Yes / No
Internet: Yes/No
Speaking/Non-Speaking orders

सत्यमेव जयते

To

The Motor Accident Claims Tribunal
(IV Additional District Judge),
Ponneri.

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ABDUL QUDDHOSE. J.,

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