

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.4747 of 2014
and M.P.No.1 of 2014

T.Krishnamurthy

... Petitioner

Vs.

1.Thanikachalam (Died)
2.Rani
3.Ramadoss
4.Murugan
5.Easwari

... Respondents

(R2 to R5 brought on record as LRs of the deceased sole respondent viz., Thanikachalam vide order dated 05.03.2018 made in C.M.P.Nos.4366 to 4368 of 2018 in C.R.P.No.4747 of 2014)

Petition filed under Article 227 of the Constitution of India against the returning of the Execution Application in E.A.Diary No.3230 of 2014 in E.P.No.63 of 2011 in M.C.O.P.No.345 of 2009 dated 12.08.2014 by the Subordinate Judge, Tiruttani, Tiruvallur District and disposed of the same.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.S.Udaya Kumar

O R D E R

Challenging the order passed in un-numbered E.A.Diary No.3230 of 2014 in E.P.No.63 of 2011 in M.C.O.P.No.345 of 2009 on the file of the Subordinate Court, Tirutani, Tiruvallur District, the petitioner/judgment debtor, who is the owner of the vehicle, has filed the above Civil Revision Petition.

2.Pursuant to the award passed in M.C.O.P.No.345 of 2009, the claimants filed an Execution Petition in E.P.No.63 of 2011. In the said Execution Petition, the petitioner filed an un-numbered application under Order 21 Rule 26 of the Code of Civil Procedure to stay the execution proceedings till the disposal of the appeal pending before the State Consumer Disputes Redressal Commission, Chennai.

3.It is the case of the petitioner that he bought the vehicle, which involved in the accident, by obtaining loan from the Bank and the Bank had not informed the petitioner for renewing the insurance policy, which resulted in fastening the liability on the petitioner in M.C.O.P.No.345 of 2009. In such circumstances, the petitioner has filed a petition before the District Consumer Disputes Redressal Forum, Tiruvallur, which dismissed the petition. Aggrieved over the same, the petitioner preferred an appeal before the Tamil Nadu Consumer Disputes Redressal Commission and the appeal is pending. Till the disposal of the appeal, the petitioner sought for stay of the execution proceedings in E.P.No.63 of 2011 filed by the claimants.

4.On a perusal of the affidavit filed in support of the petition, it could be seen that the petitioner has not made out a case for staying the execution proceedings pursuant to the order passed by the Motor Accident Claims Tribunal in M.C.O.P.No.345 of 2009. Even if the petitioner succeeds in the Consumer Appeal, he can recover the money only from the Insurance Company. The pendency of the Consumer Appeal shall not stand in the way of the claimants in executing the decree passed in M.C.O.P.No.345 of 2009. The Executing Court has rightly returned the application filed by the petitioner. I do not find any error or irregularity in the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

सत्यमेव जयते Sub Assistant Registrar

va

To

The Subordinate Judge, Tiruttani, Tiruvallur District

+1cc to Mr.A.R.Suresh, Advocate SR.No.89324

+1cc to Mr.A.R.Suresh, Advocate SR.No.88838

C.R.P.No.4747 of 2014
and M.P.No.1 of 2014

MR (CO)
GMY (15/11/2019)

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