



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

WEB COPY

W.A. (MD)No.663 of 2019

and

C.M.P. (MD)No.8390 of 2019

and

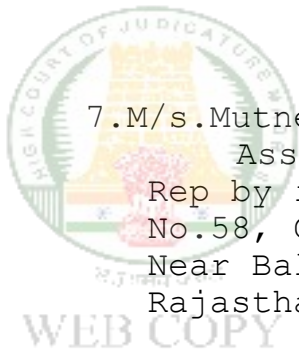
C.M.P. (MD)Nos.5672, 5673, 7044 and 5895 of 2019

R.K.Ilango

... Appellant

Vs.

1. Insurance Regulatory and Development Authority (IRDA),
Rep by its Chairman, Parishman Bhavan,
3rd Floor, Basheer Bagh, Hyderabad-500 004.
2. The Oriental Insurance Company Limited,
Rep. by its Deputy General Manager,
Motor OD Claims Department,
88, Jampath, Connaught Place,
New Delhi-110 001.
3. Vortex Loss Assessors,
Rep by its Partner S.Prabakaran,
90/12 A, Thammanan Road,
Arisipalayam, Salem-636 009.
4. M/s. Innovative Valuers and Engineers,
Consultant Private Limited,
Rep by its Director, Vidya Bhushan Seghal,
Property No.218, Khasra No.218/1,
3rd Floor, Naharpura Village,
Sector-7, Rohini Delhi,
North West Delhi-110 085.
5. M/s. Kensecure Technical Services,
Private limited,
Shop No.3, Plot 3,
Deepak Plaza, D C Chowk,
Sector 9, Rohini Delhi,
North West Delhi-110 085.
6. M/s. Eminent Support Services,
Private limited, No.5, 200, Sunder, Viher,
Pashim Vihar, New Delhi-110 087.



7.M/s.Mutneja Tech Insurance Surveyors and Loss Assessors Private Limited,
Rep by its Principal Shyam Sunder Mutheja,
No.58, Gandhi Nagar,
Near Bal Niketan School, Sri Ganaga Nagar,
Rajasthan-335 001.

8.M/s.IAR Surveyors and Loss Assessors Private Limited,
Rep by its Managing Director,
Manu Mehta, No.1105, 11th Floor,
Pearl Omaxe Netaji Subhash Place,
Pitmapura, New Delhi-110 034.

..Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order passed by this Court in W.P.(MD)No.9681 of 2018 dated 27.02.2019 and allow this appeal.

Prayer in WP(MD). 9681/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus forbearing the 2nd respondent from engaging unauthorized personnel for carrying out survey and assessment of motor own damage loss in respect of claims up to Rs.50,000/- under the guise of empanelment of loss assessment agency and direct the 1st respondent to issue direction to insurers to engage only surveyors and loss assessors for carrying out survey and loss assessment in respect of all claims.

For Appellant : Mr.N.Dilip Kumar
For R1 : Mr.S.Anwar Sameem
For R2 : Ms.K.R.Shivasankari
For R3 to R8 : Mr.B.Saravanan

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.N.Dilip Kumar, learned counsel for the appellant, Mr.S.Anwar Sameem, learned counsel for the first respondent, Ms.K.R.Shivasankari, learned counsel for the second respondent and Mr.B.Saravanan, learned counsel for the respondents 3 to 8.

2. This appeal is directed against the order passed in W.P.(MD)No.9681 of 2018 dated 27.02.2019.

3. The writ petitioner is Mr.R.K.Ilango, who had sought for a direction to forbear the second respondent from engaging unauthorized personnel from carrying out survey and assessment of motor own damage loss in respect of claims upto Rs.50,000/- under



the guise of empanelment of loss assessment agency and also sought for a direction to the insurer to engage only surveyors loss assessors for carrying out survey and loss assessment in respect of all claims.

4. The learned Single Bench by the impugned order has dismissed the writ petition and rejected all the contentions. The appellant Mr.R.K.Ilango has filed this appeal before this Court on 27.06.2019. Unfortunately Mr.R.K.Ilango is no more and he passed away on 07.08.2019.

5. Now, Mr.R.Srinivasan, seeks to substitute himself as writ petitioner. The question would be whether such substitution is permissible. The learned counsel appearing on behalf of Mr.R.Srinivasan by referring to the decision of the Hon'ble Supreme Court in case of the ***Press Trust of India and others Vs. Union of India*** [(1974) 4 SCC 638] submitted that the substitution petition being only an technical matter is permissible and Mr.R.Srinivasan should be permitted to be substituted in the place of the appellant, Mr.R.K.Ilango and upon going through the decision in the Press Trust of India, we find that the same is factually distinguishable and cannot be applied to the case on hand.

6. In the said case, the question was whether, one of the shareholders should be substituted in the place of another, since deceased, who represents the Company therein. This was permitted by the Hon'ble Supreme Court. However, in the instant case, the writ petitioner is Mr.R.K.Ilango and he had filed this writ petition in his personal capacity, though the issue in this writ petition is widely couched.

7. The petitioner, who had come before this Court, is an individual and this being the nature of Public Interest Litigation, the question of substitution or bringing on record the legal heirs of the appellant does not arise. Therefore, we hold that Mr.K.Srinivasan cannot substitute himself as appellant instead of Mr.R.K.Ilango, since deceased. Hence, the substitution petition is dismissed.

8. In view of the above observation, this writ appeal is dismissed as abated. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar



TO

1.The Chairman, Insurance Regulatory and Development
Authority (IRDA),
Parishman Bhavan,
3rd Floor, Basheer Bagh, Hyderabad-500 004.

2.The Deputy General Manager,
The Oriental Insurance Company Limited,
Motor OD Claims Department,
88, Jampath, Connaught Place,
New Delhi-110 001.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-96501[F] dated
06/11/2019)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-96631[F] dated
07/11/2019)

+1 CC to M/s.B.SARAVANAN, Advocate (SR-96610[F] dated 07/11/2019)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-96756[F] dated
07/11/2019)

ORDER MADE IN
W.A. (MD) No.663 of 2019
06.11.2019

ta
MS/13-11-2019/4P.7C