



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (NPD) (MD) .No.253 of 2018

Sheik Mohammed

... Petitioner/Petitioner/Petitioner

Vs.

Shri Ram General Insurance Company Limited
through its Branch Manager,
No.8, RIICO Industrial Area,
Sitapura,Jaipur,
Rajasthan 302 022.

...Respondent/Respondent/ 2nd Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order made in I.A.No.99 of 2017 in M.C.O.P.No.224 of 2013 on the file of the IV Additional District Court, Tirunelveli, dated 27.07.2017.

For Petitioner : Mr.T.Selvakumaran

For Respondent : Mr.D.Sivaraman

O R D E R

The Civil Revision Petition has been filed challenging the order passed by the IV Additional District Court, Tirunelveli in I.A.No.99 of 2017 in M.C.O.P.No.224 of 2013, dated 27.07.2017.

2. The revision petitioner herein is the claimant in M.C.O.P.No.224 of 2013 and his father's name is Mohammed Abdul Kani and the claim petition in M.C.O.P.No.225 of 2013, the petitioner's name is Sheik Mohammed and his father's name is Shahul Hameed. However, according to the revision petitioner, the Court below has wrongly noted the claim petition No.224 of 2013 instead of 225 of 2013 and the claim petition No.225 of 2013 instead of 224 of 2013. Therefore, the revision petitioner herein filed an application in I.A.No.99 of 2017 before the Court below to amend the decree in M.C.O.P.No.224 of 2013. But, the Court below has rejected the said application stating that the claim petition in M.C.O.P.No.225 of 2013 filed by the very same name of the petitioner was dismissed for default on 27.09.2013. Hence, no claim can be maintained in M.C.O.P.No.224 of 2013. Challenging the said order, the revision petitioner herein has approached this Court by filing this revision petition.

3. The learned counsel appearing for the respondent has no objection for allowing the revision petition.

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



5. Originally, as per the Suit Register, the revision petitioner herein filed M.C.O.P.No.224 of 2013, wherein the claimant name was mentioned as Sheik Mohammed, S/o. Mohammed Abdul Kani and in M.C.O.P.No.225 of 2019, the claimant name was mentioned as Sheik Mohammed, S/o. Shahul Hameed. The claim petition in M.C.O.P.No.225 of 2019 was dismissed for default. Subsequent to the dismissal, the Court below pursued the claim petition in M.C.O.P.No.224 of 201 and passed the decree. However, while numbering the petition, the Court below wrongly numbered the claim petition as M.C.O.P.No.225 of 2013 instead of M.C.O.P.No.224 of 2013. All these facts came to the knowledge of the revision petitioner only subsequent to the passing of the decree. Therefore, the revision petitioner herein filed an application in I.A.No.99 of 2017 before the Court below to amend the decree in M.C.O.P.No.224 of 2013. But, the Court below, without referring the Suit Register and without noticing the error committed by the Office in numbering the claim petitions, dismissed the application. This Court is of the view that the Court below has committed an error in dismissing the application filed by the revision petitioner herein. Therefore, this Court is inclined to set aside the order passed by the Court below. Accordingly, the order passed by the IV Additional District Court, Tirunelveli in I.A.No.99 of 2017 in M.C.O.P.No.224 of 2013, dated 27.07.2017 is set aside and the Civil Revision Petition is allowed. Further, this Court directs the Court below to allow the claimant to carry out all the amendment in the claim petition within a period of one week from the date of receipt of a copy of this order and the Court below shall issue a fresh decree copy within a period of one week thereafter and reporting compliance before this Court within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The IV Additional District Court, Tirunelveli.
2. The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai
3. The Section Officer(Judicial)
Madurai Bench of Madras High Court, Madurai

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