

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP.NPD.No.1742 of 2006 and
MP.Nos.1 of 2007 & 2 of 2006

State of Tamil Nadu rep. by
Commissioner of Police,
Madras

... Petitioner/Judgment Debtor

Vs.

1.T.Mohammed Hussain
2.T.Mumtaz Begam
3.Haseena Begum
4.Jabeena Begum
5.Mobeena Begum
6.Mohammed Ezaz
7.Suriya Begum

... Respondents/Decree Holders

PRAYER:

The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure against the judgment and decree dated 09.10.2006 made in EP.No.1133 of 2005 in MACTOP.No.55 of 1989 on the file of V Small Causes Court, Chennai.

For Petitioner : Mr.S.Jaganathan,
Government Advocate (CS)

For Respondents

R1 : died
R2 to 7 : Notice served

ORDER

This civil revision petition is arising out of judgment and decree dated 09.10.2006 passed in EP.No.1133 of 2005 in MACTOP.No.55 of 1989 on the file of V Small Causes Court, Chennai thereby ordered attachment of the petitioner's vehicle to realise the balance amount of Rs.95,272,-/-.

2. Though name of the claimants are printed in the cause list, no one appeared on behalf of the claimants before this Court in person or through pleader.

3. The petitioner's vehicle met with an accident due to which one person died. On the death of the said person, the legal heirs of the deceased filed claim petition claiming a sum of Rs.4 lakhs as against the petitioner under the Motor Vehicle Act. Motor Accidents Claims Tribunal awarded a sum of Rs.1,05,000/- payable by the petitioner by the judgment and decree dated 29.07.1991. Aggrieved by the same, the petitioner as well as the claimants filed appeal and cross objection to enhance the award amount. By the judgment and decree dated 20.07.1999, the appellate court dismissed the appeal filed by the petitioner and allowed the cross objection filed by the claimants and enhanced the award amount to the tune of Rs.2,45,000/- Thereafter the claimants filed execution petition. While pending the execution petition, the petitioner paid a sum of Rs.25,000,- in cheque on 03.09.2001 and paid a sum of Rs.82,551/- on 19.04.2000, then Rs.73,984/- and finally on 09.10.2006 a sum of Rs.2,01,151/- paid to the claimants by way of cheques. All the amounts were duly realized by the claimants and no amount is pending from the petitioner herein. Even without considering the above payments, the execution court ordered attachment of the Police Van.

4. Considering the above, this civil revision petition is allowed and the judgment and decree dated 09.10.2006 passed in EP.No.1133 of 2005 in MACTOP.No.55 of 1989 on the file of V Small Causes Court, Chennai is set aside. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Judge,
V Small Causes Court,
Chennai.

+1cc to the Special Government Pleader Sr.7643

CRP.NPD.No.1742 of 2006

cp[co]
srg 08/04/2021