



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 29.04.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P(PD) (MD) .No.299 of 2021
and
C.M.P. (MD) No.1691 of 2021

Sakthivel : Petitioner/petitioner/1st Claimant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division -5, Madurai Road,
Virudhunagar Town. : Respondent / Respondent / Respondent

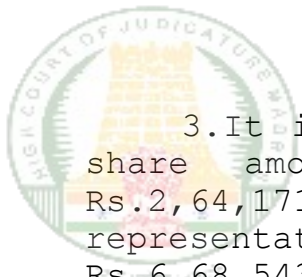
PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal Order dated 14.10.2020 made in I.A.No.1 of 2020 in E.P.No.2 of 2013 in M.C.O.P.No.139 of 2008 on the file of the Principal Sub Court (MACT), Srivilliputhur.

For Petitioner : Mr.M.Suresh
For Respondent : Mr.P.N.Vishnuvarthanan

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2020 in E.P.No.2 of 2013 in M.C.O.P.No.139 of 2008, dated 14.10.2020 on the file of the Principal Subordinate Court, Srivilliputhur.

2.The revision petitioner is the first claimant in M.C.O.P.No.139 of 2008 and he along with two others have laid the claim petition, claiming compensation for the death of one Suresh, who died in an accident occurred on 29.10.2007. The Tribunal after conducting trial, has passed an award, directing the respondent/Corporation to pay compensation of Rs.7,91,720/- with interest and costs. Accordingly, the Transport Corporation has deposited a sum of Rs.7,91,720/-. It is also not in dispute that subsequently, the third claimant had died on 23.01.2015 without executing any testamentary documents and hence, the present petitioner and the fourth petitioner were impleaded as legal representatives of the deceased third respondent.



3.It is further evident that the first claimant, claiming his share amount of Rs.3,00,000/- with interest and cost of Rs.2,64,171/- and Rs.1,04,312/- due to him as the legal representative of the deceased third petitioner; all totalling Rs.6,68,543/-, sought to transfer the said amount into his bank account, but the Executing Court dismissed the application. The main reason for the dismissal, as shown by the Executing Court is that the petitioner has not obtained any permission for cancelling the vakalat of the previous counsel appearing for the revision petitioner and directed him to file a fresh petition after cancelling the vakalat of the earlier counsel with the permission of the Court.

4.The learned counsel for the revision petitioner would submit that since the earlier counsel refused to endorse no objection, a registered letter was sent to him and that the copy of the letter along with the postal acknowledgement card were produced before the Executing Court, but the Executing Court without considering the same, has dismissed the petition. In case, if the earlier counsel refuses to say no objection nor refuses to endorse the same, the petitioner has to intimate about the cancellation of the vakalat and thereafter, he can engage another Advocate. Simply because, the earlier counsel refuses to say no objection, it cannot be said that the petitioner is liable to wait till his earlier counsel changes his mind.

5.The learned counsel for the respondent would submit that in case, if the earlier counsel has issues with the parties, he cannot prevent or prohibit the party from engaging another counsel. The petitioner has produced the copies of notice sent to the earlier counsel along with post acknowledgement card and it is clearly evident that the revision petitioner has sent an intimation requesting him not to appear on their behalf as they are cancelling the vakalat given to him. Assuming for arguments sake, that there existed a dispute, regarding the settlement of fees due to the earlier counsel by the petitioner, even then the earlier counsel has to take appropriate proceedings before the appropriate forum and he cannot stall the Court proceedings.

6.The learned counsel for the respondent would submit that they are not having any objection to allow the revision and also for issuing the cheque as sought for by the revision petitioner.

7.Considering the above, the decision of the Executing Court in dismissing the petition is not proper and is not in accordance with law. In the result, the Civil Revision Petition is allowed and the impugned order in I.A.No.1 of 2020 in E.P.No.2 of 2013 in M.C.O.P.No.139 of 2008, dated 14.10.2020 on the file of the Principal Subordinate Court, Srivilliputhur, is set aside and the Executing Court is directed to restore the petition on file and to



proceed with the same in accordance with law. No costs.
Consequently, connected Miscellaneous Petitions closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

das

To

1.The Principal Sub Judge (MACT),
Srivilliputhur.

+1 CC to M/s.P.M.VISHNU VARTHANAN, Advocate (SR-18239[F] dated
30/04/2021)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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