



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

**CRP (PD) (MD) No.2114 of 2014**

S.Bagya  
D/o.Selvam

... Petitioner/Proposed  
Petitioner

versus

Bagyam (died)  
W/o. late Subbiah

... Claimant

1. Roja

... 1<sup>st</sup> Respondent/  
1<sup>st</sup> Respondent

2. The Branch Manager,  
National Insurance Company,  
Parco Towers,  
PM Raj Road,  
Calicut,  
Kerala - 673 001.

...2<sup>nd</sup> Respondent/  
2<sup>nd</sup> Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Executable Order dated 19.08.2013 passed in I.A.No.128 of 2012 in M.C.O.P.No.894 of 2009 on the file of the Additional District and Session Court, Dindigul.

For Petitioner : Mr.M.S.Suresh Kumar

For Respondents : Mr.K.Muthumalai for R1  
Mr.J.S.Murali for R2

**ORDER**

This Civil Revision Petition is directed against the dismissal of application filed by the petitioner, seeking to bring herself on record as legal representative of the claimants in M.C.O.P.No.894 of 2009.



2. The said claim petition was filed by one Bagyam and her son Shanmuganathan in the year 2009, seeking compensation for the death of one Subbiah, husband of Bagyam and father of Shanmuganathan. Pending the said Original Petition, both claimants died. The petitioner herein filed an application in I.A.No.128 of 2012, seeking to bring herself on record claiming under a registered instrument recognizing her adoption dated 29.09.2011. A registered deed of adoption executed on 29.09.2011 was filed as evidence of adoption. The learned Tribunal, which heard the application, dismissed the same, raising a doubt as to why Bagyam should have adopted the petitioner, when there are other similarly related persons available. However, the Court below has not returned any findings on the validity of the deed of adoption.

3. Section 12 of the Hindu Adoptions and Maintenance Act, 1956, raises a presumption in respect of the registered instrument, which records the factum of adoption. In view of the same, in the absence of any other evidence, it shall be presumed that the adoption had taken place as recited in the instrument.

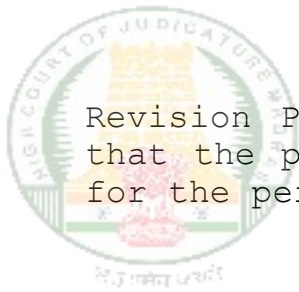
4. I am, therefore, of the considered opinion that the Tribunal was not right in dismissing the application upon raising a doubt, regarding the suitability of the petitioner for adoption. It is not for the Court to decide as to who should be adopted. Once the adoption is recorded, by a registered instrument, the presumption under Section 12 of the Hindu Adoptions and Maintenance Act, 1956 would apply. Therefore, the petitioner would be entitled to be brought on record as legal representative of the deceased claimant Bagyam.

5. In view of the above, the Civil Revision Petition is allowed. The Interlocutory Application in I.A.No.128 of 2012 will stand allowed. The petitioner is brought on record as 3<sup>rd</sup> petitioner/3<sup>rd</sup> claimant in M.C.O.P.No.894 of 2009.

6. It is seen from the status report filed by the learned counsel for the petitioner that M.C.O.P.No.894 of 2009 has been closed with liberty to reopen the case, subject to the result of this Civil Revision Petition. Now that, this Civil Revision Petition is being allowed and the petitioner is brought on record, M.C.O.P.No.894 of 2009 will stand restored.

7. Mr.J.S.Murali, learned counsel for the Insurance Company would submit that the Insurance Company cannot be blamed for the dismissal of the application by the trial Court and hence, the petitioner would not be entitled to interest for the period, during which, the Civil Revision Petition was pending.

8. The petitioner has filed a memo, waiving interest for the period from 12.12.2013 till the date of disposal of the Civil



Revision Petition. The said memo is recorded. It is made clear that the petitioner would not be entitled to interest in the award for the period from 09.12.2013 till 21.01.2021. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Additional District and Session Judge,  
Dindigul.

Copy to:

The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.(2 Copies)

+1 CC to M/s.K.MUTHUMALAI, Advocate ( SR-1792[F] dated 22/01/2021 )

+1 CC to M/s.J.S.MURALI, Advocate ( SR-1911[F] dated 22/01/2021 )

**C.R.P. (PD) (MD)No.2114 of 2014**

**21.01.2021**

**PM** (CO)

NR (09/02/2021) 3P : 6C