



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10203 of 2014

1. Ponuthai
2. Minor. Petchimuthupandian
3. Minor. Venkateswaran
4. Minor. Sathya
- 5.Karuppasamy
- 6..Subbulakshmi

...Petitioners

(Minor petitioners 2 to 4 are represented through their next friend and natural guardian the first petitioner herein)

Vs.

1. The District Collector,
Virudhunagar District, Virudhunagar-626 003.
2. The Tahsildar,
Virudhunagar Taluk, Virudhunagar-626 003.
3. Sundaramoorthy
4. Rajendran

... Respondents

(Respondent Nos.3 and 4 are impleaded by this Court vide order dated 16.04.2021 in W.M.P.(MD).No.1729/2018)

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to take up all such necessary recovery processes, under the provisions of Tamil Nadu Revenue Recovery Act. No.2 of 1864, in terms of the provisions contained under Section 174 of the Motor Vehicles Act, to recover the amounts as per the award dated 15.09.2012, passed in M.C.O.P.No.16 of 2012, on the file of the learned Additional District Judge (Motor Accidents Claims Tribunal) Virudhunagar, as certified by the order dated 25.04.2013 passed in I.A.No.29 of 2013 in M.P.C.O.P.No.16 of 2012, on his file and complete the same by taking up the petitions dated 13.08.2013 and 29.11.2013 filed by the petitioners to the first respondent within a time frame as may be fixed by this Court.

For Petitioners

: Mrs.P.Jessi Jeeva Priya

For R-1 & R-2

: Mr.K.P.Narayanakumar



Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a writ of Mandamus directing the first and second respondents to consider the petitions filed by the petitioner on 13.08.2013 and 03.12.2013 and initiate proceedings under the Revenue Recovery Act, 1864, in order to recover the compensation amount from the impleaded third and fourth respondents.

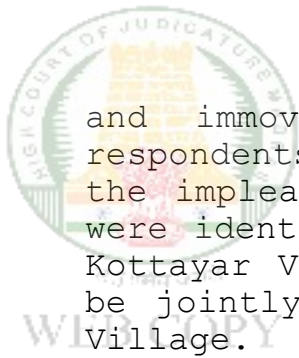
2. The case of the petitioner is that one Balagurusamy, who is the husband of the first petitioner and the father of the petitioners 2 to 4 and son of petitioners 5 and 6, was killed in a road accident, due to the rash and negligent driving of the impleaded third respondent. The proceedings were initiated under the Motor Vehicles Act, 1988, claiming for compensation in MCOP No.197 of 2011, before the Motor Accidents Claims Tribunal (MACT), Virudhunagar. It was subsequently, transferred to the file of the learned Additional District Judge, Virudhunagar and the same was renumbered as M.C.O.P.No.16 of 2012. The impleaded third respondent, who is the driver of the offending vehicle and the fourth respondent, who is the owner of the vehicle, were respondents in the said proceedings. The Tribunal by award dated 15.09.2012, directed the payment of compensation to the tune of Rs.5,22,800/- with interest at the rate of 7.5% per annum.

3. The further case of the petitioner is that this award became final and it was not challenged by the impleaded third and fourth respondents. The impleaded respondents did not comply with the award passed by the Tribunal and hence, the petitioners filed an application in I.A.No.29 of 2013, before the Motor Accidents Claims Tribunal, Virudhunagar, for a direction to issue a Certificate of non payment. This application was allowed and a certificate was also issued.

4. Thereafter, the petitioners made an application to the first respondent to invoke revenue recovery proceedings and recover the compensation amount awarded by the Tribunal. Since the same was not acted upon, the present Writ Petition has been filed before this Court seeking for appropriate directions.

5. Heard Mrs.P.Jessi Jeeva Priya, learned counsel appearing on behalf of the petitioners and Mr.K.P.Narayana Kumar, learned Special Government Pleader appearing on behalf of the respondents 1 and 2.

6. The learned Special Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that based on the representation made by the petitioners, an enquiry was conducted and information was gathered regarding the availability of the movable



and immovable properties of the impleaded third and fourth respondents. It was found that there was no property in the name of the impleaded third respondent. However, three movable properties were identified to be owned by the impleaded fourth respondent at Kottayar Village. That apart, eight properties were identified to be jointly owned by the impleaded fourth respondent in the same Village.

7. The learned Special Government Pleader further submitted that there were two houses owned in the name of the impleaded fourth respondent at Pommaiypuram Village. There was also a tractor that was in the name of the fourth respondent. It was further submitted that the impleaded fourth respondent has sold his properties and insofar as the house is concerned, he has transferred the same in the name of his wife. The tractor was sold to his brother. Thereby, there are absolutely no properties that are standing in the name of the impleaded fourth respondent.

8. In view of the above, the learned Special Government Pleader submitted that there are no movable or immovable properties belonging to the impleaded third and fourth respondents that could be brought for sale in the revenue recovery proceedings.

9. In the considered view of this Court, if the fourth respondent has transferred the two tiled houses in the name of his wife after the award was passed against him, the same should be construed as a fraudulent transfer and the fourth respondent cannot wash off his hands by not paying the compensation. Therefore, the first respondent shall take immediate action to proceed against the two tiled houses that were transferred by the fourth respondent in the name of his wife, under the revenue recovery Act, 1864 and proceeds shall be handed over to the petitioners towards the compensation awarded to them by the Motor Accidents Tribunal. This proceeds shall be completed by the first respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. The petitioners shall make a fresh representation to the first respondent along with all the relevant documents and also a copy of this order.

11. The Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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.

Tsg

To

1. The District Collector,
Virudhunagar District, Virudhunagar-626 003.
2. The Tahsildar,
Virudhunagar Taluk, Virudhunagar-626 003.

+1 CC to M/s.SPL GP (SR-16302[F] dated 17/04/2021)

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-16430[F] dated 19/04/2021)

Order made in
W.P. (MD) .No.10203 of 2014
Dated:

16.04.2021

GS (21.05.2021) 4P 5C