



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.29185 OF 2013
AND MP NO.1 OF 2013

Shafi @ Mohamed Shafi

... Petitioner

Vs.

1.The District Collector
Perundurai Road,
Erode - 638 011.
Erode District.

2.The Revenue Divisional Officer
Gobichettipalayam,
Erode District.

3.The Tahsildar
Gobichettipalayam,
Erode District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the order in Na.Ka.5007/13/AA3 dated 14.08.2013 passed by the 2nd respondent, quash the same.

For Petitioner :Mr.N.Manokaran

For Respondents:Mr.M.Rajendran
Additional Government Pleader

O R D E R

The petitioner is a Mechanical Engineer. He owns an Auto Carage and doing all kinds of mechanical works for the Cars and Jeeps. It is stated that a Jeep bearing Registration No.TN36-G-0007 was entrusted by the second respondent to the petitioner for doing some repair works on 22.08.2001. While the petitioner



was driving the Jeep, at about 05.00 pm, on 22.08.2001, he caused an accident and one Sundar had sustained injuries and died. Thereafter, the mother of the deceased filed a Claim Petition before the Motor Accident Claims Tribunal / Sub Court, Bhavani and a compensation of Rs.5,00,000/- was awarded by the Motor Accident Claims Tribunal fastening liability on both the petitioner as well as the first respondent. As per the award, the petitioner and the first respondent are jointly and severally liable to pay the compensation. The first respondent preferred an appeal in CMA No.3486 of 2004 and the same was dismissed by this Court on 18.09.2009 holding the appellant / first respondent liable to pay the compensation. After suffering the defeat, the second respondent has issued the impugned proceedings in Na.Ka.No.5007/13/AA3 dated 14.08.2013 directing the third respondent Tahsildar to recover the award amount of Rs.4,57,768/- from the petitioner. Challenging the same, the petitioner is before this Court.

2. According to the petitioner, the impugned order without putting him on notice is violative of principles of natural justice and that the respondents have no right to recover the money without any adjudication as to the liability of the petitioner. Taking liability of payment of award, the respondents have deposited the entire amount and it was withdrawn by the victim's mother. The deposit was made without any reservation of right to recover it from the petitioner. In such circumstances, it is not open to the petitioner to invoke the provisions of the Revenue Recovery Act or by any other proceedings.

3. From the materials produced before this Court, it is noted that the entire award amount was deposited by the first respondent without any reservation of right to recover it from the petitioner. Of course, it is true that the petitioner as well as the first respondent are jointly and severally liable to pay the award amount. When the claimant filed the execution petition, the first respondent ought to have contested the case as to the apportionment of liability. Without doing so, the first respondent has deposited the entire amount. In that event, the respondents ought to have adjudicated the matter in the manner known to law and obtained an order / certificate of liability of the petitioner. Without getting any final order or determination or adjudication of liability, invocation of Revenue Recovery Act is not sustainable. Only because the first respondent is the authority to recover money by invoking Revenue Recovery Act, he cannot determine the liability of the petitioner. Therefore, the impugned recovery proceedings issued



by the second respondent in Proceedings Na.Ka.No.5007/13/AA3 dated 14.08.2013 is not sustainable.

4. Accordingly, the impugned order passed by the second respondent in Proceedings Na.Ka.No.5007/13/AA3 dated 14.08.2013 is set aside and the writ petition is allowed. However, liberty is granted to the respondents to work out their remedy in the manner known to law. The period spent in this writ petition stands excluded as per Section 14 of the Limitation Act, 1963. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

TK
To

1. The District Collector,
Perundurai Road,
Erode - 638 011. Erode District.
2. The Revenue Divisional Officer,
Gobichettipalayam, Erode District.
3. The Tahsildar,
Gobichettipalayam, Erode District.

Copy to

The Motor Accident Claims Tribunal/Subordinate Court,
Bhavani, Erode District.

+lcc to M/s.N.Manokaran, Advocate Sr.21184
+lcc to the Government Pleader Sr.21688

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srg 17/05/2022