



WEB COPY



CRP No.1568 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM

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

C.R.P. No.1568 of 2016

and

CMP No. 8443 of 2016

1. Jamuna

2. Krishnamoorthy

3. Sathiyamoorthy

....

Petitioners

Vs

1. P.Dhanalakshmi

2. M.Loganathan

3. Chitra alias Priyadarshini

....

Respondents

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure to set aside the orders of the learned Chief Judicial Magistrate of Krishnagiri dated 29.01.2016 in R.E.P.No. 61 of 2013 in M.C.O.P.No.1093 of 2006 and allow the above CRP

For Petitioners : Mr.V.Nicholas

For R1 : Mukund R. Pandiyan

For R2 & R3 : Not ready in notice



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ORDER

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2. The first respondent herein filed a claim petition in MCOP No.1093 of 2006 for the injury sustained on 01.07.2005 in the accident., when she was travelling as a pillion rider in the TVS Super XL bearing Registration NoTN-29-K-2713 from Varatanapalli to Bargur. According to her the accident had occurred due to the rash and negligent driving of the deceased first respondent in the claim petition. The offended vehicle had no insurance. Therefore, the first respondent herein filed claim petition as against the driver of the first respondent and the owner of the vehicle. The claim petition was allowed by an order dated 08.08.2012 and thereby the Tribunal awarded a sum of Rs.2,32,540/- as compensation payable by the petitioners and the respondents 2 and 3 herein jointly and severally with cost. In order to execute the said order, the first respondent herein filed a petition in REP.No.61 of 2013.

3. The petitioners herein filed a counter stating that the execution



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petition is not maintainable, since they engaged a counsel who failed to appear before the Court below; they were set ex-parte and they had no knowledge about the award being passed by the Court below. They also filed a petition to set aside the ex-parte decree. However, pending those applications, the execution petition was ordered.

4. The learned counsel appearing for the petitioners would submit that the schedule mentioned property does not belong to the deceased Bharathi as alleged in the execution petition. The said property belongs to the petitioners exclusively and she only borrowed a loan for constructing house to the tune of Rs.3,20,000/-. Though the petitioner stated so in their counter, she failed to substantiate the same by proper evidence. Therefore, the Court below rightly allowed the execution petition

5. In view of the above, this Court finds no infirmity or illegality in the order dated 29.01.2016 passed in R.E.P.No. 61 of 2013 in M.C.O.P.No.1093 of 2006 on the file of the Chief Judicial Magistrate of Krishnagiri. Accordingly, this Civil Revision Petition stands dismissed.



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Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No

Internet : Yes/No

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To

The Chief Judicial Magistrate,
Krishnagiri.

G.K.ILANTHIRAIYAN,J.



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