

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-5109 of 2019(O&M)
Date of Order: 05.04.2022

Jammu and Kashmir State Road Transport Corporation

..Petitioner

Versus

Neetu and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Viren Jain, Advocate
for the petitioner.

Mr. Ankit Joshi, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is Jammu and Kashmir State Road Transport Corporation (hereinafter referred to as 'the Corporation'). The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 with a prayer to grant compensation to the claimants. The State of Jammu & Kashmir was impleaded as respondent no.4. The Corporation was not a party to the aforesaid claim petition which was allowed on 16.11.2016. The claimants filed an execution petition while impleading the State of Jammu & Kashmir as a respondent no.4. The Corporation was not even a party to the execution petition.

The Executing Court has while passing the impugned order on 29.05.2019, observed as under:-

“6. During the course of arguments query was put to the learned counsel for the objector as to whether the offending bus bearing registration no.JK-02Y-0536 was owned by Jammu and Kashmir State Road Transport Corporation or not. Then on the internet, search was

made and it revealed that the name of the owner of the bus has been described as Managing Director of Jammu and Kashmir State Road Transport Corporation. The objector intends to avoid his liability on the ground that Jammu and Kashmir State Road Transport Corporation is having no concern with the said bus, but prima facie the said Corporation is owner of offending bus and said corporation is the agency of Government of Jammu and Kashmir that provides road transportation within Jammu and Kashmir as is apparent from the website of the Jammu and Kashmir State Road Transport Corporation. It is also reveals that Jammu and Kashmir State Road Transport Corporation is having its head office Shri Nagar, Jammu and Kashmir, India. So, when the State of Jammu and Kashmir has made party as respondent no.4 in the claim petition and the Jammu and Kashmir State Road Transport Corporation is the agency of the said State, then the objections having raised by the objector i.e. Jammu and Kashmir State Road Transport Corporation through its General Manager thereby denying its liability, are not sustainable. Thus, these objections having been moved by Jammu and Kashmir State Road Transport Corporation are without any substance and the same are hereby dismissed.

Now warrants of attachment against the property of the JD as well as objector be issued on filing of list of property warrant fee within 7 days and the said warrant be returnable for 03.08.2019.”

The learned counsel representing the petitioner contends that the petitioner-Corporation is a separate legal entity, therefore, the Executing Court was not correct in proceeding with the matter, in the manner, it has been done. He contends that the warrants of attachment could not be issued against the petitioner-Corporation.

Per contra, the learned counsel representing the respondent contends that the Bus No.JK-02Y-0536 is owned by the petitioner-Corporation, therefore, the Court has passed the order in the interest of justice.

After having heard the learned counsel representing the parties at some length, this Court is of the considered view that the intent of the

Executing Court may be laudable, however, the procedure adopted is not correct. The Executing court cannot travel beyond the scope of the judgment which has the force of a decree.

At this stage, it may not be appropriate to make any further observation.

Keeping in view the aforesaid facts, the order under challenge is set aside while giving liberty to the claimants to avail their remedy in accordance with law.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

April 05, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No