



Cont.P.No.1029 of 2018

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Contempt Petition No.1029 of 2018

1.Indumathi

2.Minor Ajaidevan

3.Minor Sanjaidev

[Petitioners 2 and 3 are represented
by guardian 1st petitioner]

4.Radhakrishnan

5.Vasuki

..Appellants

Vs.

Dr.Aslaam Yusuf

..Respondent

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for contempt of Court for disobedience of the order of this Court dated 10.09.2015 made in CMA.No.2044 of 2015 on the file of this Court.

For Appellants : Mr.S.Senthilnathan

Amicus Curiea : Mr.M.B.Raghavan



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J U D G M E N T

WEB COPY (Judgment of the Court was made by **R.SUBRAMANIAN,J.**)

The petitioner seeks to punish the respondent for contempt of Court. The contempt alleged is non-payment of award amount granted in MCOP.No.63 of 2010 under the award dated 14.09.2013 and confirmed by this Court in CMA.No.2044 of 2015 by its order dated 10.09.2015.

2. It is clear to our mind that an award of the Motor Accident Claims Tribunal is an executable decree and hence the proceeding for contempt will not lie. We are supported by following the judgments of the Hon'ble Supreme Court in *Kapildeo Prasad Sah and others Vs. State of Bihar and others* reported in (1999) 7 SCC 569 and *R.N.Dey and others V. Bhagyabati Pramanik and others* reported in (2000) 4 SCC 400 in our above conclusion.

3. Mr.S.Sentilnathan, learned counsel appearing for the contempt petitioner would however submit that he was forced to file this contempt because the Tribunal to which the award was transmitted by the Motor Accident Claims Tribunal, Thiruvavarur dismissed his execution



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petition on the ground that it being a Small Causes Court it cannot proceed against the immovable property in execution of the decree.

4. We must point out that such conclusion is wholly unjustified.

The Motor Accident Claims Tribunal is a creature of the statute and it has got the power to recover the award amount from the insurer or the owner of the vehicle, who is liable to pay the same as arrears of land revenue. Rule 22 of the Tamil Nadu Motor Vehicle Tribunal Rules makes Order XXI of the Code of Civil Procedure applicable to the Tribunal and it provides that the awards can be executed as if it were a decree for payment of money passed by such Court in a civil suit. Therefore, the Tribunal has got every power to execute the decree. The notion that being a Small Causes Court, the Tribunals in Chennai cannot execute the awards passed in motor accident claim cases by attaching immovable properties is wholly incorrect.

5. Section 165 of the Motor Vehicles Act empowers the State Government to constitute Tribunals by notification in the Government Gazette. Merely because a Judge of the Small Causes Court is constituted as a Tribunal under the Motor Vehicles Act, it cannot be said that the



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Tribunal will still be a Small Causes Court and it cannot proceed against the immovable property in execution of a decree. The Small Causes Court cannot proceed against the immovable property in execution of a decree passed by it as a Small Causes Court, but when the decree is an award of a Motor Accident Claims Tribunal, Section 174 read with Rule 22 of the Tamil Nadu Motor Vehicles Tribunal Rules invests the power of execution of a civil Court in a Tribunal. Therefore, it is clear to our mind that the notion that it cannot proceed against the immovable property in execution of a decree is incorrect. We hold that as a Tribunal it would be entitled to proceed against the immovable property under Section 174 of the Motor Vehicles Act read with Rule 22 of the Tamil Naud Motor Vehicles Tribunal Rules.

6. We also make it clear that merely because the Small Causes Court is designated as Tribunal it will not be denuded of the powers conferred on it under the Motor Vehicles Act and the Rules. We remind the Small Causes Court that when it functions as a Motor Accident Claims Tribunal, it functions as a statutory Tribunal under the Motor Vehicles Act which itself is a self contained Court.



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7. Mr.S.Senthilnathan, learned counsel appearing for the petitioner would submit that he has filed a fresh execution petition in E.P.Sr.No.5740 of 2023 on 21.07.2023. The Tribunal is directed to number the same forthwith proceed under Order 21 of the Civil Procedure Code. It shall dispose of the said execution petition within a period of six (6) months from the date of its numbering.

8. The contempt petition is dismissed.

9. We place on record our appreciation for the assistance rendered by Mr.M.B.Raghavan, learned counsel appointed as Amicus Curiae.

(R.S.M.,J.) (V.L.N.,J.)
04.08.2023

dsa
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Speaking order/ Non-speaking order



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