



TR. CMP. No. 402 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

TR. CMP. No. 402 of 2023
& CMP No. 8799 of 2023

Parameswari (Died)
1.Shanmugam
2.Iyyappan

...Petitioners

Vs.

1.Ezhumalai
2.Choolamandalam MS General Insurance Company Limited,
Through its Branch Manager,
Officer at Dare House, 2nd Floor,
No.2 NSC Bose Road,
Chennai – 600 001.
3.Velmurugan

....Respondents

PRAYER : This Transfer Civil Miscellaneous Petition is filed under Section 24 of CPC, to withdraw the MCOP No. 131 of 2023 on the file of Special Officer cum Additional Sub-Court, Pondicherry and transfer the same to the file of the learned Special Sub-Judge, Tirunelveli.

For Petitioner : Mrs. A.sumathi
For R1 : Unclaimed



TR. CMP. No. 402 of 2023

For R2 : Ms.C.Harini
For R3 : Ms. Usha Raman

ORDER

This petition has been filed to withdraw the MCOP No. 131 of 2023 on the file of Special Officer cum Additional Sub-Court, Pondicherry and transfer the same to the file of the learned Special Sub-Judge, Tirunelveli.

2. Heard the submission of the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The learned counsel for the petitioner submits that the petitioner is mother of the one Parmaswari, who met with accident on 08.04.2017 and she was taking treatment and filed MCOP No. 918 of 2017 before the Motor Accidents Claims Tribunal, Tirunelveli. In the meanwhile, third respondent husband of the deceased Parmeshwari married another women and begot a child. Thereafter, the said Parmeshwari died on 04.02.2021. Subsequently, third respondent got legal heirship Certificate by filing O.S No. 2867 of 2021 before the Principal District Munsif, Pondicherry. Thereafter, the petitioner and his son filed I.A No. 1 of 2022 in MCOP no. 918 of 2017 to implead themselves as claimants and the same was ordered. While being so, the third respondent filed I.A No. 4 of 2022 to implead him as proposed



TR. CMP. No. 402 of 2023

petitioner. During pendency of the said petition, the third respondent filed Tr. CMP No. 589 of 2022 before this Court without showing the petitioner and his son as parties and obtained order and the said MCOP was transferred to Sub Court, Pondicherry and numbered as MCOP No. 1 of 2023. Then only the petitioner known about the transfer. Hence, he filed this this petition.

4. Considering the facts of the case, the third respondent filed Tr.CMP No. 589 of 2022 before this Court and obtained order without impleading the petitioner as party and also the fact that the petitioner is aged about more than 68 years and it is very difficult for the aged person to travel for more than 400 kilometres to attend the Court proceedings, the reason assigned by the petitioner is justifiable. Hence the Special Officer cum Additional Sub-Judge, Pondicherry, is directed to transfer the MCOP No. 131 of 2023 to the file of the Special Sub-Judge, Tirunelveli.

5. In result, this petition is allowed. No Cost. Consequentially, connected miscellaneous petition is closed.

06.11.2023

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TR. CMP. No. 402 of 2023

T.V.THAMILSELVI,J.

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To

1. The Special Officer cum Additional Sub-Judge, Pondicherry.
2. The Special Sub-Judge, Tirunelveli .

TR. CMP. No. 402 of 2023
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