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C.R.P.(NPD) No.705 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.705 of 2018
and C.M.P.No.3682 of 2018

The Oriental Insurance Co. Ltd.,
Pondicherry.

... Petitioner

vs.

1.Anthonydoss
2.Sagayanathan
3.Rojalee
4.Ramejoo
5.Savarimuthu
6.Arokiyadoss
7.Mardhandan

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 25.08.2015 made in I.A.No.913 of 2015 in M.C.O.P.No.17 of 2008, on the file of Principal District Court, Villupuram.

For Petitioner: Mrs.Elveera Ravindran

For Respondents: Ms.Dhanalakshmi (for R1)
for Mr.E.C.Ramesh



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ORDER

The learned counsel appearing for the petitioner would submit that the policy itself that have been produced before the Court was a forged document and the Oriental Insurance Company is not responsible at all.

2. According to him, on the date of the accident, the vehicle did not have an insurance and the one produced before the Court is a rank forgery. The award was passed on the basis of Ex.P5 which is the copy of insurance. As per Ex.P5, the seventh respondent vehicle was having valid insurance. The petitioner did not file an application immediately, but filed an application after two years.

3. They have not filed an application to condone the delay in filing a review petition. The period of limitation to file a review is 30 days. Section 152 of the Code of Civil Procedure is meant to correct clerical errors in the judgment or decree. Knowing that the limitation has went against them, they have deliberately not filed the application under Order 47, but had invoked Sections 151 and 152 of the Code of Civil Procedure.

4. The learned trial Judge has dismissed the application holding that such a belated application cannot be entertained. The only solution



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for the respondent is to file an appeal as against the judgment and decree in MCOP.No.17 of 2008 dated 24.02.2010. The period from 21.03.2012 till date can be considered for exclusion, as the petitioner has been bonafidely pursuing the remedy under Section 151 read with Section 152 of Code of Civil Procedure.

5. There is no apparently clerical error between the judgment and decree. It does not require interference. The order of the learned Principal District Judge, Villupuram in I.A.No.913 of 2015 in MCOP.No.17 of 2008 is confirmed. The petitioner may file an appeal against the decree, if so advised and as stated above, can get the exclusion for having bonafidely pursued this litigation.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
vs

To

The Principal District Court,
Villupuram.



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V. LAKSHMINARAYANAN,J.

VS

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