



W.P.No.26051 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.26051 of 2023
and W.M.P.No.30271 of 2018

M/s.Saravana Orchards India (P) Ltd,
Rep by is Managing Director,
K.Kothandan

.. Petitioner

Vs.

1. The Tahsildar,
Mambalam Taluk,
Chennai-600078

2. New India Assurance Co Ltd,
City D.O., 375, Mount Road,
Saidapet, Chennai
Rep by its Assistant Manager,
Divisional Office,
Trivandram,
State of Kerala.

3. S.Maina Bai

4.N.Abdul Azeez

.. Respondents



W.P.No.26051 of 2018

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue an order or direction or writ more particularly in the nature of Writ of Certiorarified Mandamus to call for the records of the 1st Respondent made in A4/4800/2018 dated 19.07.2018 and quash the same and forbear the 1st respondent from proceeding against the petitioner under the R.R.Act, 1864.

For Petitioner : M/s.P.Gunaraj

For Respondents : Mr.K.M.D.Muhilan,
Additional Government Pleader for R1

: Mr.P.S.Kothandaraman,
for M/s.G.Anandan for R2

: M/s.J.Karunanithi for R3

ORDER

This Writ Petition has been filed challenging the impugned notice dated 19.07.2018 which was issued by the 1st respondent.

2. It is the case of the petitioner that he purchased a Maruthi 800 car bearing No.T.N. 09 3699 by availing loan from the 2nd respondent and the said vehicle was covered under a comprehensive policy issued by the 2nd respondent. However, the said vehicle was hypothecated to the 3rd



W.P.No.26051 of 2018

respondent who in turn had sold the vehicle to the 4th respondent. The 4th respondent took the vehicle to his native Place at Malappuram, wherein the vehicle was found missing on 26.11.1997, pursuant to which, a complaint was lodged before the Malappuram police station on 20.11.1998. In the said complaint, the police filed a final report stating that the vehicle was untraceable. A complaint was also filed before the 2nd respondent claiming the insured amount, however, the same was dismissed. Thereafter, O.P.No.296 of 2000 was filed before the Consumer Dispute Redressal Forum claiming the insured amount from the 2nd respondent, which was allowed holding that the 2nd respondent is liable to pay a sum of Rs.1,88,160/- along with interest at 9% per annum to the petitioner who is the registered owner of the vehicle. Challenging the same, the 2nd respondent preferred an appeal before the Kerala State Consumer Disputes Redressal Commission Vazhuthacaud, Thiruvananthapuram in Appeal No.643/11 which was partly allowed holding that the 2nd respondent is liable to pay only 75% of the insured value of Rs.1,96,000/- which works out to R.1,47,000/- along with interest at 9% to the petitioner. Contrary to the said direction, the 1st respondent has issued the present impugned notice



W.P.No.26051 of 2018

to the petitioner. Challenging the same, this Writ Petition has been filed.

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3. Learned counsel for the petitioner submits that when the order has been passed in the appeal directing the 2nd respondent to pay 75% of the insured amount along with 9% interest, instead of initiating Revenue Recovery Proceedings against the 2nd respondent, the 1st respondent has issued notice to the petitioner to pay a total sum of Rs.3,76,000/- failing which, co-ercive steps will be taken against the petitioner under the Act, which is wholly arbitrary and illegal. Hence, the impugned notice issued by the 1st respondent is liable to be quashed.

4. Learned Additional Government Pleader appearing for the 1st respondent submits that though the order in Appeal No.63 of 2011 in O.P.No.296 of 2000 has been passed against the 2nd respondent Insurance Company, however, instead of initiating Revenue Recovery Proceedings against the 2nd respondent, the 1st respondent has inadvertently issued notice to the petitioner. Hence, the impugned notice issued by the 1st respondent may be set aside.



W.P.No.26051 of 2018

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5. In view of the fair submission made by the learned Additional Government Pleader appearing for the 1st respondent that impugned notice under Revenue Recovery Act has been inadvertently issued against the petitioner, the impugned notice dated 19.07.2018 is set aside and this Writ Petition is allowed. It is open to the 1st respondent to initiate revenue recovery proceedings against the 2nd respondent in accordance with law on the basis of the order passed in the appeal. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29.03.2023

Index : Yes / No
Internet : Yes / No

NHS

To

1. The Tahsildar,
Mambalam Taluk,
Chennai-600078
2. The Assistant Manager,
New India Assurance Co Ltd,
City D.O., 375, Mount Road,
Saidapet, Chennai
Divisional Office,



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Trivandram,
State of Kerala.



W.P.No.26051 of 2018

M.DHANDAPANI, J.
NHS

W.P.No.26051 of 2018

29.03.2023