



C.R.P.(MD) No.1435 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(MD) No.1435 of 2022

and

C.M.P.(MD) No.5970 of 2022

1.R.Vijay Anand

2.Minor Karthick

... Petitioners

(The minor 2nd petitioner is represented through his father and natural guardian 1st petitioner.)

Vs.

1.S.Dhinkaran

2.The Branch Manager,
United India Insurance Company Ltd.,
235, Gandhi Road,
Aarani - 632 301,
Vellore District.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.1 of 2021 in M.C.O.P.No.191 of 2011 dated 19.04.2022 on the file of the Additional District & Sessions Judge, Srivilliputhur.



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For Petitioner : Mr.A.Jayaramachandran

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 19.04.2022 passed by the Additional District & Sessions Judge, Srivilliputhur in I.A.No.1 of 2021 in M.C.O.P.No.191 of 2011.

2. Heard the learned counsel for the petitioners and perused the affidavit filed in support of the present Civil Revision Petition.

3. It appear that the claim petition in M.C.O.P.No.191 of 2011 filed by the petitioners was made over to the Sub Court, Srivilliputtur and was later re-numbered as M.C.O.P.No.209 of 2011. Thereafter, the said transferred M.C.O.P.No.209 of 2011 was also transferred to the Chief Judicial Magistrates Court, Srivilliputtur and re-numbered as M.C.O.P.No.79 of 2016. Thereafter, the said M.C.O.P. was transferred to the Additional District & Sessions Judges Court, Srivilliputtur pursuant to the order dated 29.11.2019 passed by the Principal District Court, Srivilliputtur in Tr.O.P.No.94 of 2019 filed by the petitioners. Finally, the



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said M.C.O.P. was further transferred to the Additional District and Sessions Court, Virudhunagar and re-numbered as M.C.O.P.No.46 of 2023. The petitioners had filed the above M.C.O.P.No.191 of 2011 (finally re-numbered as M.C.O.P.No.46 of 2023) for claiming compensation on account of death of his wife who appears to have died in a road accident on 07.04.2011.

4. Similarly, the claim petition in M.C.O.P.No.213 of 2011 was filed by the first petitioner's father-in-law Mr.V.K.Sundaram (since deceased) which was made over to the Sub Court, Srivilliputtur and was later re-numbered as M.C.O.P.No.231 of 2011. Thereafter, the said transferred M.C.O.P.No.231 of 2011 was also transferred to the Chief Judicial Magistrates Court, Srivilliputtur and re-numbered as M.C.O.P.No.81 of 2016. Thereafter, the said M.C.O.P. was transferred to the Additional District & Sessions Judges Court, Srivilliputtur pursuant to the order dated 29.11.2019 passed by the Principal District Court, Srivilliputtur in Tr.O.P.No.94 of 2019 filed by the petitioners. Finally, the said M.C.O.P. was further transferred to the Additional District and Sessions Court, Virudhunagar and re-numbered as M.C.O.P.No.47 of 2023.



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5. Earlier, when the case was to be tried, the Chief Judicial Magistrates Court, Sirivilliputtur has stated that in absence of proper petition for declaring the guardianship, the case cannot be tried jointly and therefore, the first petitioner's father-in-law (since deceased) appears to have filed G.W.O.P.No.7 of 2017. Later, M.C.O.P.No.213 of 2011 (finally re-numbered as M.C.O.P.No.47 of 2023) was dismissed as the first petitioner's father-in-law Mr.V.K.Sundaram died on 30.04.2021 during the pendency of the claim petition before the Additional District and Sessions Court, Virudhunagar.

6. The petitioner as a husband of late Mrs.Geethalakshmi has filed I.A.No.1 of 2021 in M.C.O.P.No.191 of 2011 (finally re-numbered as M.C.O.P.No.46 of 2023) when case was pending before the Additional District and Sessions Judges Courts, Srivilliputtur for amending the claim petition as according to the petitioner, details of the were wrongly filled in the claim petition based on the FIR lodged by late Mr.V.K.Sundaram, the first petitioner's father-in-law/the father of the deceased Mrs.Geethalakshmi. According to the petitioner, the petitioner's wife was working as a Manager in Guru Match Works and was earning a sum of Rs.10,000/- and the her age was also wrongly recorded.



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WEB COPY 7. It is submitted that the Additional District and Sessions Judges Court, Srivilliputtur has erred in dismissing the said I.A.No.1 of 2021 in M.C.O.P.No.191 of 2011 (finally re-numbered as M.C.O.P.No.46 of 2023).

8. It is the case of the petitioners that it has been wrongly recorded that the avocation of the petitioner's wife and the second petitioner's was Hindi Teacher in Adhithya School and was earning a sum of Rs.5,000/- per month when indeed she was working as a Manger in Guru Match Works and also as a cultivating tenant in Temple and was earning a sum of Rs.10,000/- per month.

9. It is further case of the petitioners that the Court below has come to an erroneous conclusion that the first petitioner has committed fraud and abused the court proceedings.

10. A reading of the impugned order dated 19.04.2022 indicates that I.A.No.1 of 2021 was filed before the Additional District & Sessions Judges Court, Srivilliputtur only on 17.01.2021 in respect of the claim



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petition which was lodged as early as 2011. The wisdom dawned on the first petitioner after a lapse of 10 years since the filing of the M.C.O.P.No. 191 of 2011 (finally re-numbered as M.C.O.P.No.46 of 2023). Therefore, there is no scope for interference with the impugned order. The first petitioner himself appears to be a practising Advocate. Such a mistake regarding avocation of his wife late Mrs.Geethalakshmi could not have been committed at the time of filing of M.C.O.P.No.191 of 2011 (finally re-numbered as M.C.O.P.No.46 of 2023) considering the fact that the first petitioner is a practising Advocate. Even if such a mistake was committed, the amendment petition should have been filed earlier.

11. The amendment cannot be allowed. The Court below has rightly dismissed the I.A. filed by the petitioner for amending the details in the claim petition. The Court has however made few observations touching on merits of the case while passing the impugned order dated 19.04.2022 in I.A.No.1 of 2022 which is unwarranted. The Additional District and Sessions Court, Virudhunagar shall dispose of M.C.O.P.No. 46 of 2023 (formerly M.C.O.P.No.191 of 2011), within a period of 9 months from the date of receipt of a copy of this order.



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WEB COPY 12. Therefore, this Civil Revision Petition deserves to be dismissed and is accordingly dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

05.06.2023

NCC : Yes/No
Internet: Yes/No
Index: Yes/ No
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To

1. The Additional District & Sessions Judges Court,
Srivilliputhur.
- 2.The Additional District and Session Judges Court,
Virudhunagar.



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C.SARAVANAN, J.

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