



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.06.2023
Pronounced on : 23.06.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.R.P(NPD) (MD) .Nos.2631 of 2017 and 2632 of 2017
and
C.R.P(MD)No.559 of 2023
and
C.M.P(MD)No.12093 of 2017

Subramanian ... Revision Petitioner in all CRPs

Vs.

Rajam ... Respondent in all CRPs

PRAYER in C.R.P(NPD) (MD)No.2631 of 2017 : Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records pertaining to the orders passed by the Subordinate Judge, Sankarankovil in E.A.No.331 of 2017 in E.P.No.1 of 2016 in M.C.O.P.No.194 of 2005 dated 10.11.2017 and set aside the condition imposed in the said order.

PRAYER in C.R.P(NPD) (MD)No.2632 of 2017 : Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records pertaining to the orders passed by the Subordinate Judge, Sankarankovil in E.A.No.332 of 2017 in E.P.No.1 of 2016 in M.C.O.P.No.194 of 2005 dated 10.11.2017 and set aside the condition imposed in the said order.

PRAYER in C.R.P(MD)No.559 of 2023 : Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records pertaining to the orders passed by the Subordinate Judge, Sankarankovil in E.A.No.332 of 2017 in E.P.No.1 of 2016 in M.C.O.P.No.194 of 2005 dated 09.02.2023 and set aside the same.

For Petitioner : Mr.R.Nireesh Kumar
(In C.R.P(NPD) (MD)Nos.2631 & 2632 of 2017)

For Petitioner : Mr.N.Balasubramanian
(In C.R.P(MD)No.559 of 2023)

For Respondent : Mr.S.Kumar in all CRPs

**COMMON ORDER**

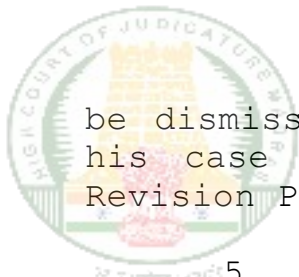
These Civil Revision Petitions are filed against the order dated 10.11.2017, 10.11.2017 and 09.02.2023 passed in E.A.Nos.332 of 2017 and 331 of 2017 in E.P.No.1 of 2016 in M.C.O.P.No.194 of 2005 on the file of the Subordinate Court, Sankarankovil.

2. The brief facts of the case:

The revision petitioner is the first respondent in M.C.O.P.No.194 of 2005 on the file of the Additional Sub Court, Tenkasi. The revision respondent has filed the MCOP No.194 of 2005 against the revision petitioner and one Paulraj claiming compensation for the death of one Pankajam, who died in the motor accident involved the vehicle of the revision petitioner. In that petition an award was passed on 06.11.2009 awarding compensation of Rs.1,20,000/-. Since the award amount was deposited, the revision respondent filed E.P.No.1 of 2006 for arrest of the revision petitioner and an ex-parte order was passed on 28.07.2017. While so, pending the said E.P.No.1 of 2006 the revision petitioner filed E.A.Nos.331 of 2017 and 332 of 2017 to set aside the ex-parte order and to reopen the E.P. The Trial Court has passed conditional order dated 10.11.2017 directing the revision petitioner to deposit Rs.1,00,000/- to the credit of E.P.No.1 of 2016 on or before 04.12.2017. Since the revision petitioner has not deposited the said conditional amount on the stipulated date, or produced any order from the appellate Forum, the Executing Court dismissed the petition in E.A.No.332 of 2017 on 09.02.2023. Aggrieved by the conditional order dated 10.11.2017 and the dismissal order dated 09.02.2023, the revision petitioner has preferred these Civil Revision Petitions.

3. Heard both side and perused the records in these Civil Revision Petitions.

4. The learned counsel appearing for the revision petitioner has argued that in the accident, the vehicle bearing registration numbers TN- 72-C -5964 and TN-22-C-5964 were stated to be involved. The revision petitioner is not the owner of the vehicle and he sold out the vehicle at the time of accident to one Radhakrishnan. Hence, he is not liable to pay the compensation awarded. The revision petitioner remained idle as he sold the vehicle. On receipt of notice for arrest, he came to know the fact of award passed against him in E.P.No.1 of 2016 upon the order of ex-parte passed on 02.08.2017. Immediately, he filed the petition in E.A.Nos.332 of 2017 and 331 of 2017 to set aside ex-parte order and to reopen the E.P.1 of 2016. But, conditional order was passed by the Executing Court against which he preferred C.R.P. (MD) Nos.2631 and 2632 of 2017. In that CRP also conditional order passed and hence, the E.A.No.332 of 2017 came to



be dismissed. The revision petitioner has valid ground for his case for the sale of his vehicle. Therefore, these Civil Revision Petitions may be allowed.

5. The learned counsels appearing for the respondents vehemently contended that the revision petitioner after lapse long years wanted to defend the case. The accident claim petition was ordered in the year 2009 and the petitioner has filed the impugned petition in the year 2017 i.e., after receipt of notice for arrest. The revision petitioner originally appeared through his counsel failed to contest the case before the Trial Court. Now, the case is pending executing the award of the Accident Tribunal before the Executing Court. Hence, the revision petitioner has no valid case and hence, these Civil Revision Petitions have to be dismissed.

6. On hearing both and on perusal of records, it is clear that the respondent filed the claim petition in MCOP.No.194 of 2005 and an award was passed on 06.11.2009. Though the revision petitioner stated two vehicle registration numbers, the Accident Claim Tribunal held that the vehicle bearing registration Number TN-72-C-5964 was involved. Regarding the order of the Tribunal no appeal was preferred. The revision petitioner participated the trial proceedings through his counsel and filed a counter stating that he sold his vehicle, but ownership was not transferred. It is settled law that if registration book of the vehicle is not transferred to the subsequent purchaser the owner is liable to pay the compensation. However, the case is now pending for executing award before the Executing Court and the revision petitioner was set ex-parte on 28.07.2017. Though the revision petitioner filed to set aside the ex-parte order and to reopen case, the Executing Court ordered conditional order directing him to deposit Rs.1,00,000/- in E.P.No.1 of 2016. On perusal of records, it is clear that the revision petitioner filed C.R.P.Nos.2631 and 2632 of 2017 before this court and this court also ordered conditional stay to deposit a sum of Rs.1,00,000/- to the credit of E.P.No.1 of 2016. But, the revision petitioner failed to comply with the conditional order resulting E.A.No.332 of 2017 came to be dismissed. It is settled principle of law that the Executing Court can only proceed to execute the decree/award and not go beyond the decree and the parties to the suit/proceedings must obey the command of the decree, until the decree is set aside by the subsequent constitutional proceedings or by the appellate court. On hearing both, it is admitted fact that the award passed in M.C.O.P.No.194 of 2005 is not set aside so far. It is not the case of the revision petitioner that he took steps to set aside the award passed by the Trial Court. As stated supra, the Executing Court cannot go beyond the award/decreed, which is reached upon discussion of evidence adduced in that claim



petition. In the above facts and circumstances, the petitioner has no valid ground in the Civil Revision Petitions and thus, these Civil Revision Petitions fail and the same are liable to be dismissed.

7. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS III)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

vsd

To

1. The Subordinate Judge,
Sankarankovil.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.Kumar, Advocate SR.No.30961

C.R.P (NPD) (MD) .Nos.2631 of 2017 and 2632 of 2017
and

C.R.P (MD) No.559 of 2023
23.06.2023

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