



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 334 of 2024

Kishor S/o Ramkumar Ajmera

Versus

Mahemood Shah S/o Naxim Shah and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.K.Mohta, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 16th JANUARY, 2024.

Heard.

2. This matter pertains to accident claim, wherein the petitioner moved an application Exhibit 39 under Order I Rule 10 of the Code of Civil Procedure for adding Insurance Company as party-respondent. On the said application, the learned Tribunal passed the order on 16th February, 2022 directing the petitioner to file the copy of insurance policy of the offending tractor in question and put the matter for hearing after such compliance.

3. Admittedly, the said compliance was not made and therefore on 5th December, 2023, the application Exhibit 39 came to be rejected by the learned Tribunal. The said order is under challenge in this writ petition.

4. It is the case of the petitioner that direction vide order dated 16th February, 2022 was in respect of furnishing the copy of insurance policy of the offending

tractor, but infact the loader is involved in the accident and not the tractor.

5. Be that as it may, the fact remains that after 16th February, 2022, the petitioner has not sought any modification or review of the said order on any ground including the ground that the tractor was not involved in the accident but the loader was involved. In absence of any such modification or clarification sought the order dated 16th February, 2022 which remains in force and for non-compliance of the said order, the application Exhibit 39 was rejected by the learned trial Court vide impugned order dated 5th December, 2023.

6. In the above referred facts, I do not find any illegality committed by the learned trial Court while rejecting the application Exhibit 39. Accordingly, the writ petition is dismissed.

7. At this stage, learned counsel for the petitioner seeks liberty to move necessary application for modification of order dated 16th February, 2022.

8. Liberty is granted to the petitioner. If such application is moved, the learned Tribunal may decide the same in accordance with the law.

[ANIL S. KILOR, J.]