



CRP No.606 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

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Prop. Cicilamma Joseph
Ausephparampil Memorial Trust,
rep. No.3255/2000, Kurvilangad, Kottayam District.
Rep. By its Managing Trustee
prof.Philomina Joseph (Rtd.)

... Petitioner

/vs/

1. M/s Bajaj Alliance,
GE Plaxa Airport Road, Yerawaada,
Pune 411 006.
2. M/s Bajaj Alliance,
Off. At Kannikuzhi Branch, Kottayak Taluk,
Kottayam District, 686 004.
3. M/s Bajaj Alliance, having their branch office
at No.22, A.T.T.Colony, R.V. Centre,
Coimbatore, now at Race Course,
Coimbatore 641 018.
4. KumarAnkush Koli,
Seefha Bekari, D-1, Block Renuka Auto,
Vidhya Nagar, Chinchwad Pimpri,
Chinchwad Havele Pune,
Maharastra 411 019.

... Respondents



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PRAYER : This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the docket order dated 01.11.2023 in unnumbered S.O.P.Sr.No.3479/2023 by the Principal District Judge, Coimbatore and consequently, direct the Principal District Judge, Coimbatore to take on file the above S.O.P.SR No.3479/2023 on file .

For Petitioner ... Mr. B.Manoharan

ORDER

This Civil Revision Petition has been filed to set aside the docket order dated 01.11.2023 in unnumbered S.O.P. SR. No.3479/2023 by the Principal District Judge, Coimbatore and consequently, direct the Principal District Judge, Coimbatore to take on file the above S.O.P.SR No.3479/2023 on file.

2. The petitioner trust, representing by its Managing Trustee, has filed the above said petition before the Principal District Judge, Coimbatore to give succession certificate in its favour, to receive the sum assured in the insurance policy of the deceased Deepika Padma. The above petition was returned on the ground that it is not maintainable. Though the



petitioner has re-presented the same by expressing reasons for the maintainability of the petition on various dates, vide impugned docket order dated again the petition was returned stating as “ *this petition is not maintainable, in the absence of any document to show that the petitioner is entitled for claim amount. Hence returned.*” Challenging the above docket order, this civil revision petition has been filed.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. On perusal of records, it is noticed that the petitioner has filed the above said petition for issuing of succession certificate to the estate of the deceased Deepika Padma, on the following grounds.

- i) The said Deepika Padma died on 21.10.2016 issueless.
- ii) One K.V.Padmakumari, the mother of the said Deepika Padma, had admitted herself on her own willingness in the old age home run by the petitioner's trust, in which, she was provided necessary medical treatment from 05.08.2019 till her death on 10.11.2019.
- iii) During the above tenure, the said K.V.Padmakumari had executed a Will, dated 19.10.2019 and expressed her pleasure and



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willingness to give her entire movable and immovable properties in favour of the Trust and also she had handed over all the relevant documents pertaining to her properties and also the insurance policy records of her daughter Deepika Padma.

iv) In the Insurance policy, the daughter Deepika Padma had nominated her mother to receive the sum assured, in case of her death.

v) Since Deepika Padma died on 21.10.2016 and the policy amount became the movable property of the mother K.V.Padmakumari, who executed a Will in favour of the petitioner Trust bequeathed her entire movable and immovable properties to the Trust, the petitioner is entitled to receive the sum assured in the insurance policy taken in the name of Deepika Padma.

5. The above petition was returned on 31.07.2023, since the legal heirs of the deceased were not impleaded as parties and also the blanks to be filled up. Subsequently, the petition was represented by the petitioner, by complying with the defects and also explaining the maintainability of the petition. Again, it was returned on 1.11.2023 stating as follows.

“ This petition is not maintainable. Since in the absence of any document to show that the petitioner is entitled for claim amount. Hence returned.”



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The petition was re-presented by the petitioner stating that based on the documents filed along with the petition, the petitioner can claim the amount. However, again, the petition was returned on 09.01.2024 with the following query.

“ Since the petition is already returned, as not maintainable, now, the representation cannot be entitled.”

6. According to the petitioner, all the necessary documents, including the Will executed by the deceased K.V.Padmakumari, mother of the deceased Deepika padma, have been filed to prove their legal entity for getting the succession certificate. However, even without numbering the petition, the learned Judge has simply returned the petition by passing the above said docket order and hence, the same is liable to be set aside.

7. Admittedly, the returned petition on various dates, was re-presented by the petitioner by explaining the maintainability of the petition. Further, the petitioner has prayed to issue succession certificate to get the sum assured in the insurance policy of the deceased Deepika Padma. In such circumstances, this court is of the view that, if the Trial



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Judge is not satisfied with the maintainability of the petition expressed by the petitioner, he has to pass a judicial order for rejecting the claim of the petition . Hence the impugned docket order is liable to be set aside.

8. Accordingly,

i) the impugned docket order passed by the learned Trial Judge is set aside.

ii) The petitioner is directed to re-present the S.O.P.SR No.3479/2023 before the Judge and on such re-presentation being made by the petitioner, the learned Judge is directed to pass judicial order on merits on the maintainability of the petition.

Iii) Registry is directed to return the original papers of S.O.P.SR No.3479/2023 to the petitioner.

9. With the above direction, this civil revision petition is allowed.

No costs.

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Index: Yes/No

Internet : Yes/No

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To

The Principal District Judge, Coimbatore.



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