



C.R.P. Nos. 3201, 3205 to 3209, 3221 and 3293 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 26.09.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. Nos. 3201, 3205 to 3209, 3221 and 3293 of 2024

Chandramma	... Petitioner in C.R.P. No. 3201 of 2024
S.Megha	... Petitioner in C.R.P. No. 3205 of 2024
Sowmya	... Petitioner in C.R.P. No. 3206 of 2024
1. N.Nagaraju	
2. N.Aruna	
3. N.Shravankumar	... Petitioners in C.R.P. No.3207 of 2024
1. Rajanayak	
2. Sakibai	... Petitioners in C.R.P. No.3208 of 2024
S.Gangothri (Minor)	
Rep. by her Guardian/Father	
V.Shivakumar	... Petitioner in C.R.P. No. 3209 of 2024
Lakshmi	... Petitioner in C.R.P. No. 3221 of 2024
V.Lakshmi	... Petitioner in C.R.P. No. 3293 of 2024

Vs.

1. K.Madhukumar
2. N.V.Mahesh



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3. Reliance General Insurance Co. Ltd.,

Rep. by its Manager,

2nd Floor, Shri Abirami Towers,

43B, Cowly Brown Road,

R.S.Puram,

Coimbatore – 641 002.

... Respondents in all C.R.Ps

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the impugned docket order dated 16.02.2024 in I.A. S.R. Nos. 383, 384, 382, 386, 391, 389, 385 and 387 of 2024 in M.C.O.P. No. 14, 20, 13, 21, 29, 27, 16 and 24 of 2020 respectively on the file of the Subordinate Court at Gudalur, The Nilgiris District.

For Petitioners : Mr. I.Abdul Basith
(in all C.R.P.s)

For Respondents : Ms. R.Sree Vidhya
(in all C.R.P.s)

COMMON ORDER

These batch of civil revision petitions are at the instance of the claimants. Due to an accident that had taken place on 26.05.2018, all the petitioners suffered injuries. Consequently, they initiated motor accident claims proceedings before the learned Subordinate Judge at Gudalur. The proceedings were taken on file and numbered. During the course of the proceedings, without taking the consent of the claimants, the learned counsel



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appearing for the petitioners withdrew all the cases. Consequently, the petitions were dismissed as withdrawn on 09.08.2023.

2. On coming to know that the M.C.O.P. proceedings had been withdrawn, they filed applications to recall the said order and restore the case. The said petitions were returned stating that as the M.C.O.Ps. had been “not pressed” and a decree had been passed, there is no provision to recall the decree. The registry seems to have given unsolicited advice that the appropriate remedy is to file an appeal or revision against the proceeding which is not pressed. Challenging these endorsements, the civil revision.

3. When the matter came up for admission, I issued notice to the respondents and requested Mr. I.Abdul Basith to serve Ms. R.Sree Vidhya, the learned standing counsel for Reliance General Insurance Company Ltd. She sought time to get instructions and the matter was listed today.

4. On instructions, Ms. R. Sree Vidhya would submit that none of the claimants were present in the Court on the day of withdrawal of the proceedings. All the withdrawals had been made only by the counsel without an endorsement to that effect from the party. She would further point out that



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in the connected proceedings, an award had been passed in M.C.O.P. Nos. 11 and 12 of 2019 by the learned Subordinate Judge at Gudalur.

5. Taking into consideration the plea of Mr. I.Abdul Basith that the parties were never informed about the withdrawal, I am of the view that they are entitled to be heard in the applications for recall. Under Order XXIII Rule 1 of the Code of Civil Procedure, it is at the discretion of the party to proceed against all or any of the respondents or to abandon the claim in entirety or in part. It has been a practice that when a party abandons the proceedings, the counsel gets the necessary endorsements from the concerned petitioners. Though an advocate has an implied authority, it cannot be extended to mean that he can withdraw the proceedings, to the detriment of the parties, without their knowledge. The Court always has the power of recall when it is brought to the notice that the claimants before it were not aware that their claim was being withdrawn.

6. In the light of the above discussion, the civil revision petitions are ordered. The learned Subordinate Judge at Gudalur shall number the applications for recall and issue notice to the respondents and receive a counter and dispose of the same within a period of four weeks from the date



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of receipt of a copy of his order. Going forward, the learned Subordinate Judge shall ensure that the consent of the parties are taken before withdrawal of petitions.

7. In the result, the civil revision petitions are ordered on the aforesaid terms. No costs.

26.09.2024

Index : Yes / No

Speaking order : Yes / No

NCC : Yes / No

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Note to the Registry: The original of the returned petitions which had been presented along with the revisions shall be returned to the learned counsel for the petitioners after obtaining usual endorsement.

To

The Subordinate Court at Gudalur, The Nilgiris District.



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V.LAKSHMINARAYANAN, J.,

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