



C.R.P.(MD)No.3434 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/01/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.3434 of 2023

and

CMP (MD) No.17679 of 2023

The Branch Manager,
United India Insurance Company Limited,
Madurai Town,
Madurai District. : Petitioner/Petitioner/
3rd Respondent

Vs.

Periyanayagam : Respondent/Respondent/
Petitioner

PRAYER:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records of the fair and decretal order, dated 09/10/2023 passed in IA No.1 of 2023 in MCOP No.13 of 2017 on the file of the Principal Sub Judge, Palani and set aside the same.

For Petitioner : Mr.I.Suthakaran

O R D E R

This civil revision petition has been filed seeking to set aside the fair and decretal order, dated 09/10/2023 passed in IA No.1 of 2023 in MCOP No.13 of 2017 by the Principal Sub Judge, Palani.



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2. The facts in brief:-

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MCOP No.13 of 2017 was filed by the respondent herein seeking compensation of Rs.5,00,000/-. Pending enquiry process, a petition was taken out by this petitioner seeking permission to examine the owner and driver of the vehicle involved in the accident, Inspector of Police, Keeranur Police Station on the ground that on the side of the Insurance Company, the Assistant attached to the RTO office was examined as RW1, on 27/02/2023. Now they obtained additional document. For that purpose, the vehicle owner, driver as well as the Investigating Officer, attached to Keeranur Police Station are required to be examined as stated above to prove their case.

3.Counter was filed by the claimant stating that the owner as well as the driver of the vehicle remained *ex-parte*. Only to drag on the proceedings, petition has been filed seeking examination of the driver and owner of the vehicle.

4.After hearing both sides, the Tribunal thought it fit to dismiss the petition stating that the owner as well as the driver are *ex-parte*. So, they would support the case of the Insurance Company and for the purpose of



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examination as witnesses is also not cited in the petition. Similarly, the Inspector of Police, who conducted the investigation is also necessitated to examine.

5.Challenging the above said order, this civil revision petition has been filed.

6.It is a summary proceedings. The main original petition was filed in the year 2017. Now we are in 2024. Even after a lapse of seven years, the enquiry is not completed.

7.Now the grievance of the petitioner is that in respect of the accident occurred, a case in Crime No.125 of 2016 was registered on the file of the Keeranur Police Station for the offences under sections 279, 337 and 338 of IPC, wherein the driver of the offending vehicle has shown as Shake Abdulla and the offending vehicle number is TN-39-AY-0612.

8.The de-facto complainant has also mentioned the above said particulars in the complaint. On the basis of the above, Shake Abdulla was shown as accused. The offending vehicle is also mentioned in the FIR. But



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during the course of investigation, it was found that Shake Abdulla was riding the two wheeler, which is unregistered and caused the accident.

9. When there is an issue with regard to the identification of the vehicle involved then necessarily the owner and rider of the vehicle alone are competent to speak about the correct particulars.

10. The learned counsel appearing for the petitioner would draw the attention of this court to the evidence of RW1, who is the Assistant attached to the RTO office.

11. In his evidence, he has stated that the vehicle mentioned in the FIR bearing No.TN-39-AY-0612 was registered in the name of one C.Vijay, S/o.Chinnasamy, Thottipalayam, Tiruppur.. So that vehicle is not involved in the occurrence. In the claim petition, the claimant has stated that the Engine No.DUZWFG75502 and chassis No.MD2A18AZ2FWG12930.

12. It is seen that on the date of the occurrence, the vehicle was not registered. According to RW1, on search with the chassis number, it was found that no records or registers are available, but whereas the above



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said chassis number tallies with that of the policy issued by the petitioner's company.

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13.Whether the chassis number as well as the engine number are one and the same is to be clarified. Even this petitioner does not dispute that the policy was issued for the chassis No.MD2A18AZ2FWG12930 But however, when doubt is raised with regard to the registration of the vehicle, then the owner and the rider of the vehicle must be examined to find out the truth.

14.On that sole ground, the impugned order passed by the trial court is liable to be set aside and accordingly, it is set aside.

15.In the result, this civil revision petition is **allowed** permitting to examine the owner and rider of the vehicle and the Investigating Officer, who conducted the investigation in Crime No.125 of 2016 on the file of the Keeranur Police Station. Steps must be taken within a period one week from the date of receipt of a copy of this order. There shall be a direction to the trial court namely Principal Sub Judge, Palani to dispose the petition within a period of one month thereafter.



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16. With the above said direction, this civil revision petition stands allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

23/01/2024

Index: Yes/No
Internet: Yes/No
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To,

The Principal Sub Judge,
Palani.



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G.ILANGOVAN, J

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