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CRP Nos. 5162 and 5164 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP Nos. 5162 and 5164 of 2025

and

CMP Nos. 26051 OF 2025 and 26056 OF 2025

Thomas Chandy

Petitioner in both CRP's

Vs

VIBHASETHI (DIED)

1. Muneer Qureshi
- 2.Heir Sethi
- 3.Fanish Sethi

Respondents in both
CRP's

Prayer in CRP.No.5162 of 2025:

Civil Revision Petition filed under Section 115 of the Civil Procedure Code, before this Court to set aside the order passed in M.P.No.3 of 2025 in MP.No.1 of 2021 in MCOP.No. 3748 of 2013 dated 28.08.2025 passed by learned II Small Causes Court, Chennai.

Prayer in CRP No. 5164 of 2025:

Civil Revision Petition filed under Section 115 of the Civil Procedure Code, before this Court to set aside the order passed in M.P.No.4 of 2025 in M.P.No.2 of 2021 in MCOP No.3748 of 2013 dated 28.08.2025 passed by the Learned II



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Small Causes Court, Chennai.

For Petitioner: Mr.G.Abraham Prabhu
(in both CRP's)

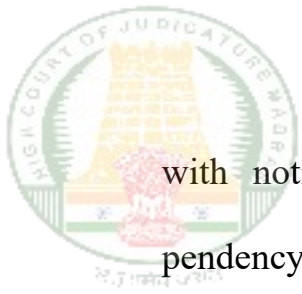
For Respondents: Mr.B.Raviraja (R2)
(in both CRP's)

COMMON ORDER

The revision petitioner in both these civil revision petitions, aggrieved by the dismissal of the applications to implead the L/R's of the deceased/claimant and to condone the delay in filing set aside applications, has filed these revisions.

2. The facts leading to filing of these civil revision petitions are as follows:

(i) The Claimant one Vibasethi filed a claim petition in M.C.O.P.No.3748/2013 against the petitioner herein, before the II Small Causes Court, Chennai, claiming compensation for a sum of Rs.15,00,000/- for the injuries sustained by her in an road accident. Admittedly, the offending vehicle belongs to the petitioner herein. In both the MCOP proceedings as well as in the E.P Proceedings, the petitioner herein was set exparte. It is the case of the revision petitioner that he has not been served

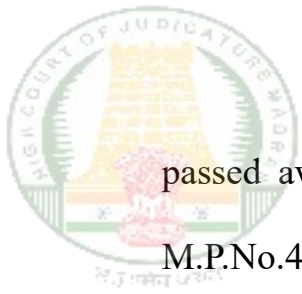


with notice in the MCOP proceedings and after coming to know about the pendency of the Execution Petition, the petitioner immediately filed a petition to set aside the exparte decree. In the meantime, the claimant passed away and therefore, there was necessity to implead her L/R's in order to pursue the setting aside application. Subsequently, the husband of the claimant also passed away and it is only two sons who have to be impleaded in the E.P proceedings as well as in the M.C.O.P proceedings.

3. The learned counsel for the petitioner submits that the petitioner is not aware of the particulars of the L/R's of the deceased and therefore they were not able to take steps to implead the L/R's of the deceased claimant in the condone delay application as well as the application to set aside the exparte decree, filed in M.P.Nos.1 and 2 of 2021 respectively.

4. Be that as it may, admittedly the vehicle belongs to the petitioner and the same was not insured at the time of accident and ultimately the liability is on the revision petitioner and in such circumstances the petitioner is entitled to an opportunity to contest the proceedings and should not be non-suited also for not taking steps to implead the L/R's of the deceased claimant.

5. In the light of the above, considering the fact that claimant have also



passed away. The order dated 28.08.2025 passed in M.P.No.3 of 2025 and M.P.No.4 of 2025 in M.P.Nos.1 and 2 of 2021 are set aside and M.P.Nos.3 and 4 of 2025 stands allowed, subject to the petitioner depositing a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the credit of MCOP.No.3748 of 2021 on the file of II Court of Small Causes, Chennai, within a period of *four weeks* from the date of receipt of a copy of this order. Subject to the compliance of the deposit as indicated herein above, the learned Trial Judge shall allow the applications to implead the legal representatives of the deceased/claimants and permit the claimants to carry out necessary amendments in the MCOP. The deposited amount of Rs.4,00,000/- shall be invested in any one of the nationalised banks in an interest bearing Deposit, till the completion of the M.C.O.P. Proceedings. I am also informed that counter was already filed in M.C.O.P, and therefore the proceedings in MCOP shall be expedited and the same shall be disposed of latest by *30.06.2026*, without seeking further extension of time. It is made clear that subject to the result of the MCOP proceedings, the fate of aforesaid deposit of the sum of Rs. 4 lakhs shall be accordingly decided. The connected applications, if any filed shall also be disposed. The two sons of the deceased Vibasethi viz., Heir Sethi and Fanish Sethi are to be impleaded in the M.C.O.P proceedings, on production of legal heirship certificate from the claimants.



These Civil Revision Petitions are disposed of accordingly. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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04-12-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

The II Small Causes Court,
Chennai.



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P.B.BALAJI, J.
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