

Joseph Vs. State of Kerala

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Court : Kerala

Decided On : Jan-02-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Joseph

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH WEDNESDAY, THE 2D DAY OF JANUARY 2014 12TH POUSHA 1935 WP(C).No. 31702 of 2013 (K) ----- PETITIONER(S): ----- JOSEPH, AGED 37 YEARS S/O. THOMAS, CHAVARAPUZHA HOUSE, KOTTIYOOR P.O., KOTTIYOOR AMSOM, KOTTIYOOR DESOM KANNUR DISTRICT, PIN-670 651. BY ADVS.SRI.ABU MATHEW SRI.AJU MATHEW RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY DISTRICT COLLECTOR OFFICE OF THE DISTRICT COLLECTOR, KANNUR DISTRICT KANNUR-1.

2. THE TAHSILDAR (RR) OFFICE OF THE TAHASILDAR, THALASSERY TALUK THALASSERY P.O., KANNUR DISTRICT, PIN-670 101.

3. THE ORIENTAL INSURANCE COMPANY LTD. MARINA SHOPPING CENTRE, NATIONAL HIGH WAY THALIPPARAMBA, KANNUR DISTRICT, PIN-670141 REPRESENTED BY ITS BRANCH MANAGER. R BY GOVERNMENT

PLEADER SRI.RAFEEK.V.K. R BY SMT.K.S.SANTHI, SC, ORIENTAL INSURANCE CO. LTD. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 0201-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 31702 of 2013 (K) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1- TRUE COPY OF THE NOTICE DATED 191-2013 ISSUED BY THE 2D RESPONDENT UNDER SECTION 7 OF THE REVENUE RECOVERY ACT. EXHIBIT P1(A)- TRUE COPY OF THE NOTICE DATED 191-2013 ISSUED BY THE 2D RESPONDENT UNDER SECTION 34 OF THE REVENUE RECOVERY ACT. EXHIBIT P2- TRUE COPY OF THE AWARD DATED 3012-2010 PASSED IN OP(MV) NO. 354 OF 2008 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KASRAGOD. EXHIBIT P3- TRUE COPY OF THE AGREEMENT DATED 2210-2007 EXECUTED BETWEEN THE PETITIONER AND ARSHAD. EXHIBIT P4- TRUE COPY OF THE I.A.NO. 533 OF 2013 IN OP(MV) NO. 354 OF 2008 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD. EXHIBIT P5- TRUE COPY OF THE I.A.NO. 532 OF 2013 IN OP(MV) NO. 354 OF 2008 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD. EXHIBIT P6- TRUE COPY OF THE LETTER DATED 2806-2013 ISSUED TO THE 1T AND 2D RESPONDENT WITH POSTAL RECEIPTS. EXHIBIT P7- TRUE COPY OF THE LETTER DATED 209-2013 SUBMITTED BY THE PETITIONER TO THE 2D RESPONDENT WITH POSTAL RECEIPT. RESPONDENT(S)' EXHIBITS : NIL. ----- //TRUE COPY// P.S. TO JUDGE. V.CHITAMBARESH, J.

----- W.P (C) No.31702 of 2013 ----- Dated this the 2nd day of January, 2014

JUDGMENT

The petitioner has been made liable under the Award in OP (MV) No.354/2008 on the file of the Motor Accidents Claims Tribunal, Kasargod. It is so done on the premise that the petitioner was the owner of the vehicle (KL-10F6035 involved in the accident at the material time. The petitioner asserts that he had long ago sold the vehicle to another under Ext.P3 agreement and parted with its possession.

2. The petitioner has been set ex-parte in OP (MV) No.354/2008 and the liability fastened on him. The Insurance Company has already paid the amount to the claimants and has initiated revenue recovery proceedings against the petitioner. Exts.P1 and P1(a) recovery notices so issued are challenged in this writ petition under Article 226 of the Constitution of India.

3. The petitioner has filed Ext.P4 petition (I.A.No.533/2013) to set aside the ex-parte Award in OP (MV) No.354/2008. The petitioner has also filed Ext.P5 petition W.P(C) No.31702 of 2013 2 (I.A.No.532/2013) to condone the delay in seeking to set aside the ex-parte Award. The petitioner seeks to defer the coercive proceedings pending consideration of Exts.P4 and P5 petitions by the Motor Accidents Claims Tribunal.

4. The claimants have already been paid the compensation amount awarded by the Motor Accidents Claims Tribunal. Therefore no prejudice would be caused by directing Exts.P4 and P5 petitions to be dealt with by the Motor Accidents Claims Tribunal in accordance with law. The same shall be done by the Motor Accidents Claims Tribunal, Kasargod within a period of two months. The coercive steps pursuant to Exts.P1 and P1(a) notices shall be put on hold for a period of three months under the circumstances. The Writ Petition is disposed of.

V.CHITAMBARESH, Judge. nj.

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