

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : CODE OF CIVIL PROCEDURE

Date of Reserve: 4.11.2008

Date of Order: 2.12.2008

CM(M) No.114/2008

Anil Anand ...

Petitioner
Through: Mr.Arvind Jain, Advocates

Versus

Binita Devi and Ors ...

Respondents
Through: Mr.Balvinder Ralhan, Advocate
for respondent No.7.

SHIV NARAYAN DHINGRA, J

1. The petitioner has assailed order dated 11.1.2007 whereby an application made by the petitioner under Order 1 Rule 10 CPC for deleting his name from the array of parties was dismissed.

2. The brief facts relevant for the purpose of deciding this petition are that in a claim before MACT three respondents were there, namely Suresh Kumar, Ravinder Kumar and Insurance company. Ravinder Kumar was the owner of the vehicle and Suresh Kumar was the driver of the vehicle. During evidence in the case, it came on record that vehicle was handed over to Suresh Kumar by the present petitioner. After this fact came on record, the claimants made an application for impleading petitioner as a party to the claim petition and the petitioner was impleaded as a party on an application made by the claimants (LRs of deceased). The petitioner thereafter made an application under Order 1 Rule 10 CPC seeking deletion of his name on the ground that he was neither owner nor driver of the vehicle nor he was the person in whose possession the vehicle was. The witness relied upon by the claimants for impleading him as a party, was not assisted by the advocate, since advocates were on strike. Therefore, his statement could not be relied upon for impleading him as a party.

3. The learned ADJ considered all the objections and response filed by the claimant. The claimant has also filed response in this Court. The response filed by the claimant shows that Suresh Kumar driver of the vehicle, was an employee of the petitioner. The address given by Suresh Kumar was the same as that of the petitioner. When Suresh Kumar was arrested, police called petitioner and informed him about his arrest, and it was petitioner who stood surety for Suresh Kumar in the criminal case pending against him.

All this shows that the petitioner was the employer of Suresh Kumar. The testimony of Suresh Kumar showed that he was sent for some work by the petitioner and the petitioner had handed over the keys of the vehicle to him. Considering all these facts, trial court came to conclusion that petitioner was a necessary party for deciding the claim petition.

4. I find no infirmity in the order of the trial Court. The petition is hereby dismissed.

December 02, 2008

Sd./-
SHIV NARAYAN DHINGRA, J