

### **Orders on IA.No.1 U/o 1 Rule 10 of CPC**

#### **This application is filed at the stage of “Filing Written Statement”**

The respondent No.2 has filed the application to strike out his name in the above case on the ground that he sold the offending vehicle bearing registration No.KA-09 EJ-0279 to one Mr. Madhusudhan. R. S/o Ramegowda in the year 2009 with handing over the possession of the same and ownership of the vehicle also got transferred into his name through RTO, Mandya and as such he is neither necessary nor proper party to the petition.

**2.** The petitioner and respondent No.1 having filed their separate objections to the application have sought to dismiss the application.

**3.** Heard both side and following points arise for my consideration:

1) Whether presence of respondent No.2 is not necessary for adjudication of matter in controversy between the parties ?

2) What order ?

**4.** My answers to the above points are as follows:

Point No.1 : In the affirmative.

Point No.2 : As per the final order

for the following:

## **REASONS**

**5. Point No.1 :-** The petition is filed U/s 166 of MV Act, seeking compensation in respect of injuries sustained in the accident due to rash and negligent riding of the Motor Cycle bearing registration No.KA-09 EJ-0279 by its rider when she was proceeding on Motor Cycle bearing registration No.KA-54 K-9358 as pillion rider. Respondent No.1 is said to be rider and respondent No.2 is said to be the RC Owner of the of the offending Motor Cycle. According to respondent No.2, he was no longer owner of the offending Motor Cycle as on the date of accident having sold the same in favour of one Sri. Madhusudhan. R. Respondent No.2 has placed on record copy of letter addressed to PSI, K.R. Pet Police Station, Postal Receipt and Acknowledgement, Form No.29 and 30 and copy of receipt for having paid fee.

**6.** Perusal of above documents, it is seen that the respondent No.2 seems to have sold the Motor Cycle in favour of R. Madhusudhan having submitted Form No.29 and 30 to the RTO, Mandya. Respondent No.2 appears to have written to K.R. Pet Police Station that he sold the Motor Cycle in favour of said R. Madhusudhan, who got his name transferred in Mandya RTO. Whereas in police records respondent No.2 is shown to be owner of the offending Motor Cycle having been shown as Accused No.2. While, copy of RC produced by petitioner shows that respondent No.2 was RC Owner of the offending Motor Cycle as on 07.10.2022.

The accident took place on 22.09.2020. According to said RC extract respondent No.2 was RC Owner of the said Motor Cycle as on the date of accident. Respondent No.2 has not placed any RC extract issued by Mandya RTO to show that said R. Madhusudhan was the owner of the said Motor Cycle as on the date of accident.

7. When RC stood in the name of respondent No.2 as on the date of accident it cannot be said that respondent No.2 is neither necessary nor proper party and his presence is not required. The points as to whether he has sold the offending Motor Cycle in favour of said R. Madhusudhan, who in turn, got it transferred in his name with RTO, Mandya and as such respondent No.2 was not Owner of the offending Motor Cycle as on the date of accident will have to be adjudicated on merits after conclusion of trial. This is premature to decide as to whether respondent No.2 was Owner or said R. Madhusudhan was owner of the offending Motor Cycle as on the date of accident. If respondent No.2 is able to show that he was no more Owner of the offending Motor Cycle as on the date of accident in view of Sale in favour of said R. Madhusudhan, the petition will stand dismissed against him. Having gone through the materials on record this tribunal is of the considered view that the presence of respondent No.2 is necessary for complete adjudication of the matter in controversy between the parties. Hence, I answer Point No.1 in the affirmative.

8. **Point No.2** :- In view of my findings on Point No.1, I proceed to pass the following:

**ORDER**

IA.No.1 U/o 1 Rule 10 of CPC  
filed by the respondent No.2 is  
dismissed.

**Sd/-  
PRINCIPAL JUDGE,  
Court of Small Causes,  
MYSURU.**