IN THE COURT OF XVII ADDL. JUDGE, COURT OF SMALL CAUSES & MEMBER, M.A.C.T, MAYO HALL UNIT, BENGALURU (SCCH-21)

PRESENT: ***Smt. Shantala Ramesh Dodwad, B.A., LL.B.,***
XVII ADDL. JUDGE, Court of Small Causes & Member, M.A.C.T., Bengaluru.

Dated this the 01st Day of July 2024

M.V.C. No. 5829/2023

Petitioner : Sri Lokesh
S/o Maguvappa,
Aged about 33 years,
R/o: Marasandahalli,
Hosakote taluk,
Bangalore Rural District 562122.

(By Sri/Smt. T Manjunath, Adv.,)

Vs.

Respondent/s: *1.* M/s. Iffco – Tokio General Insurance Company Limited
Motor Claims Hub,
No.141, 4th floor,
Sri Shanthi towers, Opp. Cupa,
3rd main, East of NGEF layout,
Kasthurinagar, Bangalore 560043.

(Policy No.1-2VWHRSILP400
MV265828
Valid Up to: 09-07-2023 TO 08-07-2024)

(By Sri/Smt. K Prakash, Advt.,)

2. Sri Kiran M S
S/o Somashekar,
Manchapanahalli village,
Tavarekere, Hosakote taluk,

Bangalore Rural district 562114

(Owner of the JCB No.KA-53-MJ-4084)

(By Sri/Smt. A C Subramanya, Advt.,)

Provision under which I.A.No.II is filed	*U/o 1 rule 10(2) R/w Sec.151 of CPC*
Relief sought for	*To delete the 1st respondent*
The date on which application at IA No.II is filed by the complainant	*17.06.2024*
Number of the application	*I.A.No.II*
The date on which objections to the I.A.No.II filed by the Accused	*29.06.2024*
Date on which Orders were passed on I.A.No.II	*01.07.2024*

ORDER ON APPLICATION FILED BY RESPONDENT NO.1 U/O 1 RULE 10(2) R/W SEC.151.

The respondent No.1 has filed application U/o1 rule 10(2) of CPC R/w Sec.151 of CPC for delete the respondent No.1 from the proceeding as an unnecessary party.

2. In the accompanying affidavit the respondent No.1 submitted that, respondent No.1 issued policy bearing No.MV265828 against the alleged JCB bearing Regn No. KA-53-MJ-4084 which is valid from 09-07-2023 time 16:32:04Hrs to 08-07-2024 time 23:59:59Hrs and the alleged accident occurred on 09-07-2023 at 1:30 p.m. It is further submitted that the jurisdictional police have filed charge sheet U/Sec.146 R/w Sec.196 of MV Act contending that the said JCB

had no valid insurance policy as on the date and time of accident and hence the alleged policy did not cover the alleged date of accident. Hence, there is no relationship of insured and insurer between the 1st and 2nd respondent as on the date of accident and this respondent has no obligation against the alleged cause of action and is an unnecessary party to the proceedings. Hence prays to allow the application.

3. On the other hand, the petitioner has filed objection stating that, the striking out / deletion of 1st respondent has sought is not proper to the petition and it does not arise at all. It is further submitted that, respondent No.1 is the insurer of the JCB bearing Regn No.KA-53-MJ-4084 vide policy No.MV265828 which is valid from 09-07-2023 to 08-07-2024, the accident occurred on 09-07-2023. Hence the 1st respondent is proper and necessary party to the proceedings. Hence, prays to reject the application.

4. Heard the arguments both sides.

5. The following points that arise for my consideration are:-

1) Whether the application filed by the respondent No.1 U/o 1 rule 10(2) R/w Sec.151 of CPC is deserves to be allowed?

2) What order?

6. My answer to the above points are as under:-

Point No.1 : In the Negative.

Point No.2 : As per final order, for the following:

REASONS

7. ***POINT NO.1****:-* The petitioner has filed this petition U/Sc166 of MV Act for granting the compensation of Rs.20,00,000/- in RTA. The respondent No.1 has submitted that the vehicle in question has issued the policy bearing No.MV265828 against the JCB bearing No. KA-53-MJ-4084 valid from 09-27-2023 time 16:32:4Hrs to 08-07-2024 23:59:59Hrs. The alleged accident occurred on 09-07-2023 at 1.30 p.m, at the time of the accident policy is not in force and he has produced the xerox copy of the policy and prays to allow the application.

8. On the other hand, the learned counsel for the petitioner submitted that the xerox copy of the insurance policy to be proved by producing reliable evidence, simply from the xerox copy of the policy without any evidence cannot be taken in to consideration.

9. There is some force in the submission made by the learned counsel for the petitioner so far no evidence is adduced in this case, it is proper to prove the xerox copy of the insurance policy till then such application cannot be taken in to consideration. So for above stated reasons, **I answer this point in the negative.**

10. ***POINT No.2 :-*** In view of the above Point No.1, I proceed to pass the following:

ORDER

The application filed by the respondent No.1 U/o 1 Rule 10(2) R/w Sec.151 of CPC is hereby rejected.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the Open Court on this the 01st day of July, 2024)

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(Shantala Ramesh Dodwad)
XVII ADDL. JUDGE,
Court of Small Causes & &
Member, M.A.C.T.,
Bengaluru.