

MACC 65 of 2023

Order No.8

27.11.2024

The claimants file hazira.

The OP no.2 files hazira.

Heard the ld lawyers for the parties.

The petition under Rule 331(2) of WBMV Rules, 1989 dated 20.09.2023 filed by the claimants is considered and allowed.

The petition under Section 158(6) of M.V. Act dated 20.09.2023 filed by the claimants is considered and rejected.

Perused the petition under Order 1 Rule 10(2) of C.P.C dated 31.08.2024 filed by the OP no.2 and the other materials on record.

Heard the ld lawyers for the parties.

It is stated therein that the policy insurance certificate against the offending vehicle as stated in the claim application by the claimants was not issued by the OP no.2, and therefore, the said policy insurance certificate is nothing but a forged and fabricated document. Hence, the instant petition stating that the OP no.2 may be expunged from the case as it bears no liability to indemnify the owner of the offending vehicle.

Upon sincere perusal of the instant petition and other materials on record I find that the OP no.2 has sought for its expunge from the case on the plea that the policy insurance certificate in respect of the offending vehicle being not issued by it, is forged one. However, whether the policy insurance certificate is forged one or not is a matter of evidence, which cannot be conclusively decided at this stage. Moreover, the presence of the OP no.2 is desirable to address the issue in order to avoid any sort of controversy. Viewed thus, I find that the instant petition is devoid of merit and liable to be discouraged.

Hence, the instant petition Order 1 Rule 10(2) of C.P.C dated 31.08.2024 filed by the OP no.2 is accordingly, considered and rejected on contest without cost.

The petition under Section 159 of M.V. Act r/w Rule 150A of CMVR dated 31.08.2024 filed by the OP no.2 is rejected as not pressed.

The OP no.2 files w.s.

Copy served.

Let the w.s filed the OP no.2 is accepted.

At this stage, the claimants file the requisite of notice for the OP no.1 in both ways with process fees.

Office to issue the same at once.

To **06.01.2025** for S/R & A/D for the OP no.1.

Office to comply.

d/c.

Judge, MAC Tribunal

ADJ, 2nd Court, Alipurduar