

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

C.R.P(NPD)No.1761 of 2011
and
M.P.No.1 of 2011

- 1.The Collector of
Cuddalore District.
- 2.The Chief Educational Officer,
Cuddalore.
- 3.The District Educational Officer,
Virddhachalam.
- 4.The Head Master,
Govt. Girls Higher Secondary School,
Pennadam.
- 5.The Tahsildar,
Tittagudi

... Petitioners

Vs.

Arumbu Ammal

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order dated 01.04.2011 passed in E.A.No.453 of 2010 in E.P.No.284 of 2008 in O.S.No.322 of 2003, on the file of Principal Sub Court, Vridhachalam.

For Petitioners : Mr.Jayaramaraj

Government Advocate

For Respondent : No Appearance

ORDER

This civil revision petition has been filed against the order dated 01.04.2011 passed in E.A.No.453 of 2010 in E.P.No.284 of 2008 in O.S.No.322 of 2003, on the file of Principal Sub Court, Vridhachalam.

2.The petitioners are the defendants in the suit in O.S.No.322 of 2003 in the judgment debtor in E.P.No.284 of 2008.

3.The respondent / plaintiff has filed the suit in O.S.No.322 of 2003 on the file of the Principal Subordinate Judge, Vridhachalam, for declaration declaring that the plaintiff is entitled to get compensation and damages to the extent of Rs.2,00,000/-.

4.The case of the plaintiff is that the plaintiff and her husband were working as Labourers in the Bricks works belongs to one Smt.Rani wife of Balu of Maligaikottam Village, Tittagudi Taluk and they were earning Rs.200/- per day. Both the plaintiff and her husband were doing the said work daily and they were earning Rs.6,000/- per month.

5.The further case of the plaintiff is that while the plaintiff and her husband were in service on 15.02.1999 at 10.00 a.m., the plaintiff was attacked by Gun Ravai on her chest, since the said gun was operated by National Cadet Corps, Girls students studying of Government Girls Higher Secondary School, Pennadam. While the said N.C.C. Girls student were taking training on the Rifle firing at Vellar River which was situating on the eastern side of said bricks works. There was no other Rifling arising took place except the said Government Girls Schools, Pennadam. Further, no other men using the said Rifle Ravai except the said N.C.C. Girls student Rifle Training place. Since the said N.C.C. Girls school student took place in a negligent manner and they were not taken place the Rifle Training in a very cautions and careful manner. Apart from this, the N.C.C. Trainer had not taken place proper prevent measure in order to avoid any manner of accident and disturbances to the surrounding public peoples.

6.After the accident, the plaintiff was taken to Police Station, Pennadam, thereafter the plaintiff was taken to Tittagudi Government Hospital, then the plaintiff was referred to Government Hospital at Cuddalore, where she was taken treatment for 10 days as in-patient, thereafter the plaintiff was incurred a medical operation to remove

Rifle Ravai from her body and for one week she was in the hospital as in-patient in two times. For the above medical treatment, the plaintiff had incurred more pain and suffering and had spent a sum of Rs.50,000/-. Thereafter, she has taken medical treatment in the private hospitals for one year. Due to the above Rifle firing, the plaintiff has lost her earning capacity and put into the total loss from her Bricks Works and Agricultural coolie works. Hence, the plaintiff family put to a very hardship and poverty conditions due to the loss of income of the plaintiff. The plaintiff is entitled to get compensation and damages to the extent of Rs.2,00,000/- from the defendants. Therefore, she stated that the 1st and 5th defendants are the Government officials, they are vicariously liable to pay the compensation and damages in favour of the plaintiff. Since the Subordinate of defendants had not taken proper prevent measures, while Rifle firing place. Therefore, they approached the learned Principal Subordinate Judge, Vridhachalam and filed the suit for compensation of a sum of Rs.2,00,000/-.

7.The 4th defendant has filed the written statement denying the above in narrating the entire facts. The defendants also states that for the accident took place and working place of the plaintiff is no way

connected. Hence, the defendants are not liable to pay any compensation.

8.Considering their case, the learned Additional Subordinate Judge, Vridhachalam has decreed the suit in favour of the plaintiff and directed the defendants to pay the said amount within a period of three months. Even after the decree passed by the learned Subordinate Judge, the defendants have not taken steps to pay the decreed amount to the plaintiff. Hence, the plaintiff has filed the Execution Petition in E.P.No.284 of 2008 in O.S.No.322 of 2003 before the Additional Subordinate Judge, Vridhachalam. In the said Execution Proceedings, notice was served and the third respondent / 3rd judgment debtor has filed counter by stating that they were filed appeal before the Appellate Court, arranging to get order of interim stay and till such time they sought for the stay of the attachment. Even then, they have not produced any stay order from the Appellate Court or any other Court. But, they have filed an unnumbered appeal in A.S.No..... of 2011 with the delay petition in I.A.No.6 of 2011 and I.A.No.7 of 2011 for interim stay of the decree. But, no order was obtained by the respondent / defendant.

9.Though the executing Court issued summons to the

defendants, who appeared on several occasions and the exparte order was passed finally on 01.04.2011 in E.A.No.453 of 2010 in E.P.No.284 of 2008 filed by this petitioners / defendants, the same was dismissed. Against which, the present E.P. has been filed.

10.Heard Mr.Jayaramaraja, learned Government Advocate, appearing for the petitioners / defendants and no representation for the respondent.

11.Admittedly, the suit was decreed in favour of the respondent / plaintiff on 29.08.2008 itself. But, in the typed set of papers it was shown in the month of January 2011, only these petitioners / defendants have filed the appeal before the District Court, Cuddalore. But, no order was obtained by them and no order of stay was produced for execution proceedings. The petitioner also not in position to say whether the appeal has been numbered or not?

12.While the civil revision petition was taken up for admission, this Court by an order dated 29.04.2011 granting an order of interim stay on condition that the petitioners shall deposit the decree amount of Rs.2,00,000/- without prejudice to the claim of both the parties before the Court below on or before 25.07.2011 and the conditional

order has not complied with, the interim stay granted shall stand vacated automatically without any further reference to this Court and the respondent will be at liberty to proceed with the E.P.

13.During the course of arguments, the learned Government Advocate, appearing for the petitioners informed this Court that as per the order of this Court, the petitioners has already deposited a sum of Rs.2,00,000/- and the same is lying in the E.P. proceedings. Hence, I am inclined to set aside the order passed in E.A.No.453 of 2010 in E.P.No.284 of 2008 in O.S.No.322 of 2003 dated 01.04.2011, on the file of the Principal Subordinate Court, Vridhachalam and the learned Execution Court is directed to dispose of the said E.P.No.284 of 2008 within a period of two months from the date of receipt of a copy of this order.

14.Accordingly, the civil revision petition is allowed by directing the Execution Court to dispose of the E.P.No.284 of 2008 in O.S.No.322 of 2003 dated 01.04.2011, on the file of the Principal Subordinate Court, Vridhachalam, within a period of two months from the date of receipt of a copy of this order and both the parties are hereby directed to give their fullest cooperation for the early disposal

of the suit within the said period.

15.Hence, the Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

23.08.2016

vs

Note:Issue order copy on 02.11.2016.

Index:Yes/No.

Internet:Yes/No.

To

1.The District Court,
Cuddalore.

2.The Principal Subordinate Court,
Vridhachalam.

M.V.MURALIDARAN, J.

vs

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