



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.6861 of 2014

and

MP (MD) .No.1 of 2014

Bharathamani

... Petitioner

-Vs-

1.The District Collector,
Tuticorin.

2.The Joint Director,
Medical Service and Welfare,
Tuticorin.

3.The Medical Officer,
Government Hospital,
Vilathikulam,
Tuticorin District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to give compensation of Rs.10,00,000/- (Ten Lakhs) to the petitioner and for the failure of the Family Planning operation.

For Petitioner : Mr.G.Thiruvartselvan

For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader

ORDER

The petitioner has come up with the Writ Petition for issuance of a Writ of Mandamus, directing the first respondent to give compensation of Rs.10,00,000/- (Ten Lakhs) to the petitioner and for the failure of the Family Planning operation.

2.The case of the petitioner is that she belongs to poor agricultural family and she married one Alagupandi. Out of the lawful marriage she gave birth to three children and thereafter, decided to perform family planning. Accordingly on 01.05.2009 she was admitted in the third respondent's hospital for the purpose of family planning and the family planning operation was also done on the same day.



3.It is the further case of the petitioner that in the year 2013, again she became pregnant. Since the doctors refused to abort the pregnancy, fourth child was born to her in the month of November 2013. Thereafter, on 26.11.2013, the doctors attached to the third respondent hospital performed the family planning. In this regard, a representation was served on 18.12.2013, seeking a compensation. Since no order was passed, the present writ petition has been filed.

4.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the records.

5.Mr.Muthukaruppan, learned Additional Government Pleader appearing for the respondents, on instructions, would submit that there was no negligence on the part of the third respondent. Since the respondents dispute the case of the petitioner, it requires appreciation of evidence and therefore, the petitioner has to approach the Civil Court for redressal of her grievance, if any.

6.It is true that in some of the cases filed seeking compensation, such as fatal accident of manual scavengers and electrocution, the compensation is awarded in writ petitions. However, in the case on hand, since serious disputed facts are involved, this Court is of the considered view that the extent of negligence and quantum of compensation cannot be decided in this writ petition.

7.In such view of the matter, the writ petition is disposed of, with liberty to the petitioner to work out her remedy in the manner known to law, if she is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector, Tuticorin.

2.The Joint Director, Medical Service and Welfare, Tuticorin.

3.The Medical Officer, Government Hospital,
Vilathikulam, Tuticorin District.

+One cc to The Special Government Pleader, SR.No.70186

dsk/sss

RL/5C/2P/KK/SAR2/28/8/2017

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