

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.No.1430 of 1998

- 1.The District Social Welfare Officer,
Thanjavur ...Appellant/2nd Defendant
- 2.The District Collector
Nagapattinam District ...Appellants/1st Defendant

Vs.

- 1.Chandra ..1st Respondent/Plaintiff
- 2.The Commissioner
Tiruvarur Municipality
- 3.Jeyaraman ...2 & 3 Respondents/
3rd & 4th Respondent

Prayer: The second appeal has been filed under Section 100 of C.P.C. against the judgment and decree dated 16.04.1997 made in A.S.No.9 of 1997 on the file of the Principal Subordinate Judge, Nagapattinam, confirming the judgment and decree dated 28.09.1994 made in O.S.No.192/94 on the file of the District Munsif Court, Tiruvarur.

For Appellants : Mr.A.Devnarendaran
Government Advocate

For Respondents: No appearance for R1
Mr.G.Sankaran for R2

J U D G M E N T

This is the most unfortunate case, wherein the first respondent / plaintiff had filed the suit for mandatory direction, directing the Commissioner of Tiruvarur Municipality / second respondent herein to pay a sum of Rs.5,000/- under the memorial scheme of "Moovalur Ramamirtham Ammaiyyar".

2. Admittedly, the marriage took place on 27.06.1990 and the first respondent / plaintiff, as per the "Moovalur Ramamirtham Ammaiyar" scheme, the respondent is entitled to receive a sum of Rs.5,000/- from the second respondent Municipality.

3. Accordingly, the first respondent applied to avail the benefit under the above said scheme before the second respondent / Commissioner of Tiruvarur Municipality. The second respondent Municipality Commissioner had also informed the first respondent about her eligibility vide its order dated 28.11.1990 and asked the first respondent to appear before the Municipality on 05.12.1990 to collect Rs.5,000/- under the said scheme.

4. Since there was a family dispute between the first respondent and her husband, the first respondent went to the Municipality Office without her husband for receiving the welfare amount. As the first respondent's husband did not accompany the first respondent, the welfare amount of Rs.5,000/- was not disbursed to her.

5. Thereafter, the first respondent repeatedly sent reminders to the Municipality Commissioner for availing the benefit of Rs.5,000/-, but she did not receive any reply from the Municipality. Hence, the first respondent/ plaintiff approached the Legal Services Authority for getting the amount sanctioned to her. The Legal Services Authority had also forwarded a letter to the Municipality Commissioner to handover the said amount of Rs.5,000/- in favour of the first respondent / plaintiff.

6. Thereafter, the second respondent Municipality sent a letter to the first respondent stating that the said scheme was transferred to the District Social Welfare Officer, Thanjavur, who is the first appellant herein, but, the Social Welfare Officer has not taken any steps to disburse the said amount to the first respondent, who is a poor lady.

7. However, she had filed a suit through Legal Aid for mandatory direction, directing the Official appellant to pay a sum of Rs.5,000/- under the above said scheme. After an elaborate trial, the Trial Court decreed the suit in favour of the first respondent / plaintiff. Being aggrieved by the said order, an appeal was preferred before the First Appellate Court, which also confirmed the decree passed by the Lower Court and issued a mandatory direction to disburse the amount of Rs.5,000/- within a period of three months. Aggrieved by the same, the official appellant has preferred the second appeal against the grant of Rs.5,000/- after spending huge amount before this Court.

9.The second appeal is admitted on the following substantial question of law:

(a) Whether the first respondent / plaintiff is entitled to receive a sum of Rs.5,000/- under the Scheme?

10.Heard the learned counsel appearing for the official appellant as well as the second respondent.

11.On a perusal of the judgments and decrees of the Courts below, there is no error or infirmity that calls for interference in the Second Appeal. The only issue raised by the official appellant as well as the second respondent is that the first respondent did not accompany with her husband. Except this, no other ground was raised in the written statement. There is no denial on the part of the official appellant as well as the second respondent that the marriage took place and the first respondent / plaintiff is entitled to get the benefit under the scheme.

12.Though the judgments and decrees have been passed by the Courts below in favour the first respondent, as on date, the first respondent is not able to reap the fruit of the benefit granted under the scheme. Since, the first respondent is an innocent poor lady, living below the poverty line, she is unable to engage any counsel to prosecute the case.

13.In order to render justice, it is appropriate to issue a direction to the official appellant and the second respondent to pay a sum of Rs.6,675/- to the first respondent / plaintiff, being the decreed amount ordered by the Trial Court and confirmed by the First Appellate Court on or before 01.03.2018 with interest at the rate of 12% for the decreed amount i.e. Rs.6,675/- from the date of decree till the date of settlement.

14.Since the first respondent was not appeared before this Court, this Court directs the Official appellant as well as the second respondent, to find the residence of the first respondent / plaintiff and disburse the amount as decreed by the Courts below and to produce the necessary receipt, proving the disbursement of the amount on or before 01.03.2018.

15.In view of the above, I do not find any substantial question of law available in favour of the official appellant. Accordingly, the second appeal is dismissed and the judgment and decree dated 16.04.1997 made in A.S.No.9 of 1997 on the file of the Principal Subordinate Judge, Nagapattinam and confirming the judgment and decree dated 28.09.1994 made in O.S.No.192 1994 on the file of the District Munsif Court, Tiruvarur, is confirmed. No costs.

16.Post "for compliance" on 01.03.2018.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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1. THE PRINCIPAL SUBORDINATE JUDGE,
NAGAPATTINAM.

2. THE DISTRICT MUNSIF,
TIRUVARUR

3. THE DISTRICT SOCIAL WELFARE OFFICER,
THANJAVUR.

4. THE DISTRICT COLLECTOR
NAGAPATTINAM DISTRICT

5. THE COMMISSIONER,
TIRUVARUR MUNICIPALITY

6. THE RECORD KEEPER V.R. SECTION,
HIGH COURT MADRAS (2 COPIES)

7. THE SECTION OFFICER,
JUDICIAL DEPARTMENT, HIGH COURT MADRAS
(FOR REPT. COMPLIANCE ON 01.03.2018)

+1cc to the Government Pleader, S.R.No. 7360

S.A.No.1430 of 1998

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TR(02/02/2018)