

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2003 of 2014
and M.P.No.1 of 2014

S.Murugesan

.. Petitioner

Vs.

1.Dr.Vetrivel Cheliyan, M.S (Ortho)
Government Hospital,
Tiruppur.

2.The Deputy Director of Health Service,
219, R.C.Road,
Coimbatore – 18.

3.The State of Tamilnadu
Represented by
The District Collector,
Coimbatore – 18.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 20.04.2014 made in I.A.No.620 of 2013 in O.S.No.478 of 2007 on the file of the II Additional Subordinate Court, Coimbatore.

For Petitioner : Mr.Kaveri Nadan
for Mr.N.Manokaran

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 20.04.2014 made in I.A.No.620 of 2013 in O.S.No.478 of 2007 on the file of the II Additional Subordinate Court, Coimbatore.

2.The petitioner is the plaintiff and respondents are the defendants in O.S.No.478 of 2007 on the file of the II Additional Subordinate Court, Coimbatore. The petitioner filed the said suit against the respondents, claiming Rs.5,00,000/- as damages on the ground of negligence of the first respondent in conducting the surgery to him. The first respondent filed written statement on 04.11.2008 and is contesting the suit. Trial commenced on 22.02.2013. The petitioner let in evidence and closed his side. The petitioner filed I.A.No.529 of 2013 to reopen the evidence and the said application was ordered on 03.08.2013. The petitioner, after taking number of adjournments for letting in further evidence, filed present application I.A.No.620 of 2013 under Section 151 of C.P.C read with Section 45 of the Indian Evidence Act for a direction to the dean of the Medical College Hospital to form a committee of doctors including specialist in Ortho and Neuro for physical examination and to file a report. According to the petitioner, the

doctors practising in the city have association in the Indian Medical Association (IMA) and therefore they are hesitating to examine the petitioner physically and give report.

3.The first respondent filed counter affidavit and denied all the averments and contended that on the representation given by the petitioner to the Hon'ble Chief Minister Cell, an enquiry committee was formed by the Joint Director of Health Services, Tiruppur. The said committee conducted enquiry by examining the petitioner and the respondents on 23.07.2007. The Joint Director of Health Services, Tiruppur filed a report stating that the operation done by the first respondent was proper. The Joint Director referred the certificate given by the Head of the Department of Ortho Division of Coimbatore Medical College. Dr.Senthilnathan who is the Chief of the Ortho Division gave opinion to the effect that the operation conducted by the first respondent to the petitioner was the best operation. The enquiry officer sent his report to the Director, Medical and Rural Services Chennai on 18.10.2007. Earlier suit was dismissed on 16.06.2011 and on application, the suit was restored to file on 25.06.2012. The petitioner has suppressed this fact and filed the present application only to drag on the proceedings and prayed for dismissal of the application.

4.The learned Judge considering the averments in the affidavit, counter affidavit and report of the committee, dismissed the application.

5.Against the said order of dismissal dated 20.04.2014 made in I.A.No.620 of 2013 in O.S.No.478 of 2007, the petitioner has come out with the present Civil Revision Petition.

6.Heard the learned counsel for the petitioner and perused the materials available on record.

7.The learned counsel for the petitioner reiterated the averments made in the affidavit and contentions raised in the grounds of revision and further contended that the operation was conducted by the first respondent three times. Inspite of the same, the petitioner was not cured. The fourth operation was done on 24.06.2006 at Government Hospital, Coimbatore for healing the old septic arthritis. According to the petitioner, the doctors are having an Association in Indian Medical Association and therefore doctors are hesitating to examine him physically and give report with regard to the operation conducted by the first respondent. This contention

is contrary to the facts. On the representation given by the petitioner to the Chief Minister Cell, an enquiry committee was formed by the Joint Director of Health Services Committee and said committee examined the petitioner and respondents and gave a report stating that operation done by the first respondent was the best operation. Dr.Senthilnathan, Dean of Ortho Department of Coimbatore Government Hospital, after examining the petitioner has given report. The petitioner has suppressed this fact and is seeking for a committee consisting of Ortho and Neuro Department.

8.As far as the report submitted by the committee, the learned counsel for the petitioner submitted that the said report is in favour of the first respondent. This is not a ground for forming a committee, after a lapse of 14 years. The learned Judge submitted that already committee has filed a report after examining the petitioner and respondents and dismissed the application holding that there is no necessity to form another committee. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 20.04.2014 made in I.A.No.620 of 2013 in O.S.No.478 of 2007.

9.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is of the year 2007, the learned Judge is directed to dispose of the suit as expeditiously as possible, in any event not later than three months from the date of receipt of a copy of this order.

16.03.2018

Index :: Yes/No
gsa

To

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- 3.The District Collector,
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V.M.VELUMANI,J.

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