

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.28011 & 28012 of 2017

1.Bakym ..Petitioner in W.P.No.28011 of 2017

2.Amirtham ..Petitioner in
W.P.No.28012 of 2017

vs

1.The District Collector,
Villupuram District.

2.The Dean
Government Medical College and Hospital
Mundiyampakkam, Villupuram District.

3.Arvind Eye Hospital, rep.by Dean
Cuddalore Main Road,
Thavalakuppam, Pondicherry.

..Respondents in both W.Ps

Prayer W.P.No.28011 of 2017:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the 1st and 2nd respondent to pay Rs.5,00,000/- as compensation for loss and damage done to the petitioner due to the negligent treatment of the 2nd respondent.

Prayer W.P.No.28012 of 2017:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the 1st and 2nd respondent to pay Rs.5,00,000/- as compensation for loss and damage done to the petitioner due to the negligent treatment of the doctors in the 2nd respondent Hospital.

For Petitioners : Mr.S.N.Subramani (in both W.Ps)

For Respondents : M/s.A.Srijayanthi, Spl GP for R1 & R2
(in both W.Ps)
Mr.V.Kamalakumar for R3 (in both W.Ps)

C O M M O N O R D E R

The relief sought for in these writ petitions is for a direction to direct the respondents 1 and 2 to pay Rs.5,00,000/- as compensation for loss and damage done to the petitioner due to the negligent treatment of the 2nd respondent.

2. In respect of W.P.No.28011 of 2017, the learned counsel appearing on behalf of the writ petitioner states that the petitioner had undergone an Eye Operation on 24.01.2012 in Government Medical College and Hospital, Mundiampakkam, Villupuram District. On account of the medical negligence, the writ petitioner lost her vision in the right Eye. The petitioner is of an opinion that she lost her vision in her right Eye on account of negligence treatment given by the 2nd respondent Hospital. Thus, the writ petitioner is constrained to move the present writ petition.

2.1. In respect of W.P.No.28012 of 2017, the learned counsel appearing on behalf of the writ petitioner states that due to vision problem in her right eye, the writ petitioner was admitted in the 2nd respondent hospital during the year 2011 and after taking treatment in her right eye, there was no improvement in her vision. Thereafter, based on the doctor's advise, she undergone another operation in the left eye on 24.01.2012 in the 2nd respondent hospital, even though the left eye was in clear vision before the said operation. On account of the medical negligence, the writ petitioner lost her total vision in the left Eye and partial disability in the right eye. The petitioner is of an opinion that she lost her vision in her left eye on account of negligence in treatment given by the 2nd respondent Hospital. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned Special Government Pleader appearing on behalf of the respondents 1 and 2 opposed the contention by stating that the writ petitioners lost their vision not on account of the negligent treatment and if at all, these aspects are to be established, the petitioners have to approach the competent forum for establishing their case.

4. The learned Special Government Pleader made a submission that the writ petitioners lost their vision after taking treatment and after approaching the 3rd respondent.

5. The learned counsel for the 3rd respondent opposed the contention by stating that when the writ petitioners approached the 2nd respondent, they lost their vision and the 3rd respondent has treated the writ petitioners properly. There is no complaint against the 3rd respondent.

6. In this view of the matter, the petitioners are at liberty to approach the competent forum for the purpose of submitting

their documents and adducing evidences seeking compensation. The Complex set of facts and circumstances can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India. When such complex facts are set out in the writ petition, the respective parties have to approach the forum concerned for the purpose of redressing their grievances by submitting the documents and adducing evidences.

7.This being the principles to be followed, the petitioners are at liberty to approach the competent forum for the purpose of claiming compensation in the manner known to law against the respondents 1 and 2.

8.With these observations, both the writ petitions stand dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kak

To

1. The District Collector,
Villupuram District.
2. The Dean
Government Medical College and Hospital
Mundiyampakkam, Villupuram District.

+1cc to M/S.S.N.Subramani, Advocate, S.R.No.57804

+1cc to the Government Pleader, S.R.No.57874

सत्यमेव जयते W.P.Nos.28011 & 28012 of 2017

SAI (CO)

CS/07/09/18

WEB COPY