

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.3645 of 2004

1.Smt.Baggiyam  
2.Murugesan

... Petitioners

Vs.

1.The State of Tamil Nadu  
Rep by the District Collector  
Karur District.

2.The Executive Engineer  
(Amaravathi River Vadinila Kottam)  
Public Works Department  
Noyyal Illam, Karur-1.

3.The Karur Municipality  
Rep by its Commissioner  
Azad Road, Karur.

4.T.Ravi  
5.Ganesan  
6.Dhanapal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to jointly and severally pay the petitioners a sum of Rs.7 lakhs as compensation for the death of their son Senthil Kumar in the Giant Wheel Collapse on 27.05.2003 in Mariyamman festival at the bank of Amaravathi river in Karur district.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents: Mr.K.S.Suresh, Govt. Advocate [For R1]  
Mr.P.Srinivas [For R3]

O R D E R

The relief sought in this writ petition is for a direction to the respondents to jointly and severally pay a sum of Rs.7 lakhs to the petitioner as compensation for the death of their son Senthil Kumar in the Giant Wheel Collapse at Mariyamman festival that had taken place on 27.05.2003 in the bank of Amaravathi river in Karur District.

2.On a perusal of the averments filed in support of the writ petition, the primary liability, even according to the petitioner, was on the fourth, fifth and sixth Respondents, who are private persons, against whom it would not be possible to issue directions under Article 226 of the Constitution of India. In respect of the third respondent, there are disputes as to whether the third respondent had granted any permission to erect the giant wheel as it is emphasised and that the auction conducted was only in respect of putting up of shops and an adjudication in that regard could be effectually made only after recording evidence, which is normally not done in a writ petition.

3.In such circumstances, Mr.Jeevagiridharan, the learned counsel appearing for the petitioner seeks permission of this court to withdraw this writ petition and pursue the common law remedies before the appropriate forum. In the circumstances, this writ petition is dismissed as withdrawn with liberty to the petitioner to seek relief before the appropriate forum. It is made it clear that the period of pendency of the writ petition shall be excluded while computing the period of limitation for the proceedings that may be initiated by the petitioner. No costs.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector  
Karur District.

2.The Executive Engineer  
(Amaravathi River Vadinila Kottam)  
Public Works Department  
Noyyal Illam, Karur-1.

3.The Commissioner,  
Karur Municipality  
Azad Road, Karur.

+ 1 cc to Mr.P. Srinivas, Advocate Sr.38775

+ 1 cc to Mr.B. Saravanan, Advocate Sr.38453

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CA(CO)

EU(18/07/2018)