



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.348 of 2017,
C.R.P. (MD)No.2494 of 2017 and
C.R.P. (MD)No.1268 of 2018 and
C.M.P. (MD)Nos.1700 & 11731 of 2017 and 5340 of 2018

C.R.P. (MD)No.348 of 2017

1. The Dean,
Rajaji Government Hospital,
Madurai.

2. The District Collector,
Madurai.

... Revision Petitioners/
Appellants

Vs.

1. M.Jeyanthi

2. The Medical Officer,
Government Hospital,
Thirumangalam,
Madurai.

... Respondents/Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the attachment order passed in E.P.No.127 of 2010, dated 16.09.2016 on the file of the I Additional Sub Court, Madurai.

C.R.P. (MD)No.2494 of 2017

1. The Medical Officer,
Government Hospital,
Thirumangalam.

2. The Dean,
Rajaji Government Hospital,
Madurai.

3. The District Collector,
Madurai.

... Petitioners/Petitioners/
Defendants



Vs.

1. M.Jeyanthi

... Respondent/Respondent/Plaintiff

WEB COPY

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order passed in I.A.No.139 of 2016 in I.A.No.94 of 2011 in O.S.No.17 of 2010, dated 07.06.2016 on the file of the learned II Additional Subordinate Judge, Madurai.

C.R.P.(MD)No.1268 of 2018

1. The Medical Officer,
Government Hospital,
Thirumangalam, Madurai.

2. The Dean,
Rajaji Government Hospital,
Madurai.

3. The District Collector,
Madurai.

... Petitioners/Respondents/
Defendants

Vs.

1. M.Jeyanthi

... Respondent/Petitioner/
Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the attachment order passed in E.P.No.127 of 2010 in O.S.No.17 of 2010, dated 16.09.2016 on the file of the learned II Additional Subordinate Judge, Madurai.

(in all petitions)

For Petitioners

: Mr.M.Karuppasamy,
Government Advocate.

For 1st Respondent in CRP.348/17 : Mr.M.Solaisamy
and For Respondent in
C.R.P.(MD)No.2494/17 & 1268/18

COMMON ORDER

The Revision petitioners herein are the defendants in O.S.No.17 of 2010 on the file of the II Additional Subordinate Court, Madurai. The respondent herein filed the said suit claiming damages to the tune of Rs.4,50,000/- initially. The suit was filed in the capacity of a Pauper, under Order 33 of C.P.C. P.O.P.No.10



of 2009 was allowed and the suit was numbered as O.S.No.17 of 2010.

2. The case of the plaintiff is that she underwent a family planning operation on 11.12.2007 at Government Hospital, Thirumangalam. It appears that the procedure was not successful and that the plaintiff was asked to undergo a further operation at Government Hospital, Madurai. The case of the plaintiff is that the operation was not properly performed and that as a result, she has been deprived of the solatium which is paid by the Government per child. Therefore, the said suit for damages was filed

3. Even though the written statement was filed by the Revision petitioners herein, in the suit, they remained ex-parte later. Therefore, the ex-parte Judgment and Decree came to be passed on 09.07.2010. To execute the same, E.P.No.127 of 2010 was filed by the plaintiff. In the said E.P., attachment orders came to be passed. Challenging the same, these Civil Revision petitions have been filed.

4. The plaintiff is present before me in person.

5. It is admitted that a sum of Rs.25,000/- was deposited to the credit of O.S.No.17 of 2010 by the Revision petitioners. The plaintiff is permitted to withdraw the said amount. Notice need not be ordered to the defendants by the Court below.

6. The plaintiff, admittedly, had undergone the family planning operation. She was earlier blessed with two children. Therefore, the plaintiff is entitled to a sum of Rs.40,000/-. The plaintiff informs this Court that she will accept the said amount as full and final settlement of all her claims. It is to be noted that the plaintiff has obtained an ex-parte decree for a sum of Rs.4,50,000/-. But she is giving up her claim and she would be satisfied with a sum of Rs.65,000/-. Rs.25,000/- has already been deposited and the same can be withdrawn by the plaintiff.

7. This Court therefore directs the Director of Family Welfare and Health, Teynampet, (D.M.S. Complex), Chennai, to pay a sum of Rs.40,000/- (Rupees Forty Thousand only) to the plaintiff within period of four weeks from the date of receipt of a copy of this order. The said Authority shall take a Demand Draft in favour of the plaintiff and to pay to the plaintiff within the aforesaid period.

8. The orders impugned in the Civil Revision petitions are set aside. E.P.No.127 of 2010 is terminated in the aforesaid terms. These Civil Revision petitions stand disposed of, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.



9. Post the matter for reporting compliance on 26.10.2018.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1. The I Additional Subordinate Judge,
Madurai.
2. The II Additional Subordinate Judge, Madurai.
3. The Director of Family Welfare and Health,
Teynampet, (D.M.S. Complex),
Chennai.
4. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

COPY TO

The Sub Assistant Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC To MR.M.KARUPPASAMY, Advocate SR. NO. 85761
+1 CC TO The Special Government Pleader SR.NO. 85660

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TR/RP/SAR-I (24.09.2018) 4P 9C