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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28491 of 2019

1. Kannan
2. Ramayi
3. Muniyan
4. Kuppammal
5. Naduthai
6. Chinnapaiyan
7. Amaravathy
8. Pappa
9. Munusamy
10. Narayanasami
11. Muniyammal
12. Eruchayi
13. Duraisamy
14. Navarathnam
15. Murugesan
16. Sellamuthu
17. Mahalingam
18. Chellammal
19. Valli
20. Jeyaraman
21. Periyammal
22. Angamuthu
23. Ayyakannu

... Petitioners

-vs-

1. State of Tamil Nadu,
Rep by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Villupuram District,
Villupuram.
3. The District Programme Officer,
District Blindness Control Society,
Collector's Office Complex,
Villupuram District.



4. Joseph Eye Hospital,
Rep by its Managing Director,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First Respondent to pay a just and fair compensation for sum of Rs.25,00,000/- (Twenty Five Lakhs Rupees) to each and every Petitioner those who have affected and lost their vision consequent to the willful and negligent act.

For Petitioners: Mr.Thirumoorthy. R

For Respondents: Mr. R. Venkatesh
Government Advocate for R1 to R3
M/s. AAV Partners for R4.

O R D E R

This Court during the earlier hearing on 27.09.2019 had passed the following order:-

"When it is pointed out that the nature of grievance sought to be ventilated by the Petitioners in the Writ Petition falls within the realm of disputed question of facts, which require to be decided after recording of evidence of the parties on their rival contentions and could not be redressed by invoking the public law remedy following summary procedure under Article 226 of the Constitution and that the appropriate remedy for the same would be to institute suit impleading necessary parties before the jurisdictional Civil Court, it is contended by the Learned Counsel for the Petitioner that on account of their impoverished circumstances, the Petitioners do not have sufficient means to bear the cost of such litigation, particularly court-fee and advocate fee.

2. In this regard, on the directions of this Court, the Member Secretary of Tamil Nadu State Legal Services Authority has appeared before this Court today and informed that if the Petitioners approach the District Legal Services Authority of the concerned District, necessary arrangements would be made for instituting the suits *informa pauperis* by filing necessary application for permission under Order XXXIII of the Code of Civil Procedure, 1908 and that all assistance by way of legal aid would be extended for conducting the same in an expeditious



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manner.

3. Learned Counsel for the Petitioners states that the Writ Petition may be adjourned by four weeks so that the Petitioners could approach the District Legal Services Authority of the concerned District for instituting the suits and report the action taken in that regard.

Post the matter on 01.11.2019."

2. Subsequently, the matter was taken up for hearings on 01.11.2019, 19.11.2019 and 27.11.2019 and it was adjourned at the request of the Counsel for the Petitioners.

3. When the matter is taken up for hearing today, it is informed by the Learned Counsel for the Petitioners that the Petitioners would be instituting the suit before the jurisdictional Civil Court availing the services of the District Legal Services Authority and that the appointment of Mr.Chandramouli, Learned Counsel, offered by the Legal Services Authority would be accepted by the Petitioners and necessary steps in this regard shall be taken.

4. In view of the same, Learned Counsel for the Petitioners seeks permission of this Court to withdraw the Writ Petition, with liberty to the Petitioners to pursue the remedy before the Jurisdictional Civil Court.

5. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.

2. The District Collector,
Villupuram District,
Villupuram.



3. The District Programme Officer,
District Blindness Control Society,
Collector's Office Complex,
Villupuram District.

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+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No. 99487

W.P. No. 28491 of 2019

GJ(CO)
GN(03/01/2020)