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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2022

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22475 of 2017

R.Marimuthu

...Petitioner

Vs

1.The Principal Secretary,
Department of Health and Family Welfare,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director,
Medical Education Board,
Kilpauk,
Chennai - 600 010.

3.The Deputy Director,
Health Services,
Saidapet,
Chennai - 600 015.

4.The Hospital Superintendent,
Government Ophthalmic Hospital,
Egmore,
Chennai - 600 008.

5.The District Collector,
Kancheepuram,
Kancheepuram District - 631 501.

... Respondents

Prayer Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorarified Mandamus, calling for the records in respect of the order passed by the first respondent in letter No.490/B1/2017-2 dated 10.04.2017 and quash the same and direct the first respondent to allot the land to the petitioner as already agreed or suitable compensation.

For Petitioner : Mr.Sam Japa Singh

For R1 & R4 : Mr.E.Sundaram
Government Advocate

For R5 : Mr.M.Shahjahan
Special Government Pleader



ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, calling for the records in respect of the order passed by the first respondent in letter No.490/B1/2017-2 dated 10.04.2017 and quash the same and direct the first respondent to allot the land to the petitioner as already agreed or suitable compensation.

2.The case of the petitioner is that, he was admitted in the fourth respondent Hospital for the treatment in his left eye, but the treatment was wrongly provided in his right eye, due to which, he lost his eye sight. Therefore, the petitioner sought for a direction to assign 50 cents of land in his favour as compensation for the negligence of the Doctor.

3.The first respondent has filed the detailed counter affidavit, wherein, it is has stated as follows:

"2.With regard to the averments made in Paragraphs 2, 8, 9, 11 and 12 of the affidavit, it is submitted that the petitioner has attended the OP of Regional Institute of Ophthalmology and Government Ophthalmic Hospital on 11.12.2007 and during that time his vision was,

Right eye 6/36 with P6/18,
Left eye 6/18 with P6/12.

Since he had cataract in his Right eye, he was admitted in the Hospital as in-patient with I.P. No.421369/88867 on 25.12.2007 Cataract Surgery was performed on 27.12.2007 in his right eye and was discharged on 29.12.2007 with instructions in the discharge summary to attend review O.P next week. As per the case sheet records, his left eye vision was good during his discharge from this hospital. After his discharge, the petitioner herein has not attended the review O.P as per Hospital records. He has neither reported about his defective vision in the hospital nor submitted any representation in this regard to the Hospital authorities."



4.By referring the above paragraph, the learned counsel appearing for the respondents 1 to 4 submitted that, the petitioner was admitted for the treatment in his right eye alone, after the cataract surgery he was advised to attend the review. But, as per the Hospital records, the petitioner has never come for the review and has simply made a representation stating that the fourth respondent has provided wrong treatment, due to which, he lost his eye sight. He further submitted that, the petitioner has not produced any evidence to prove that the treatment was provided wrongly in the right eye. Therefore, he submit that the petitioner set up false claim and prayed for dismissal of the Writ Petition.

5.Upon hearing and anxious consideration, this Court unable to trace out any document which would show that the treatment was wrongly provided to the petitioner in the fourth respondent Hospital. Furthermore, these are all disputed questions of fact which cannot be adjudicated before this Court. Thus, the issue raised by the petitioner cannot be pursued before this Court by invoking Article 226 of the Constitution of India and this Court is not inclined to entertain the same. If the petitioner has any grievance, he may approach the appropriate forum, if he so advised. Accordingly, this Writ Petition is liable to be dismissed.

6.With the above observations, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Principal Secretary,
Department of Health and Family Welfare,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Director,
Medical Education Board,Kilpauk, Chennai - 600 010.
- 3.The Deputy Director,
Health Services,
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4.The Hospital Superintendent,
Government Ophthalmic Hospital,
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5.The District Collector,
Kancheepuram,
Kancheepuram District - 631 501.

+1 cc to Mr.Sam Japa Singh ., Advocate Sr.NO. 48
+1 cc to Government Pleader Sr.NO. 644

W.P.No.22475 of 2017

PMK (CO)
A.SK(04.02.2022)