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C.M.A. No.1454 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.M.A. No.1454 of 2018 and
CMP No.11585 of 2018

M.Bharathi Rajesh

... Appellant

Vs.

1. Dr.R.Jeevanantham (Died)

CMA is dismissed as abated as against
R-1 vide Court order dated 18.07.2023
made in CMA No.1454 of 2018 by PVJ

2. The State of Tamil Nadu

Represented by
The District Collector
Dharmapuri

(R2 impleaded vide Court order dated
27.08.2018 made in CMP No.14494 of 2018
in CMA No.1454 of 2018 (NSSJ)

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Order 44 Rule 1 of Civil Procedure Code, against the fair and decreetal order dated 22.03.2016 in P.O.P.No.2 of 2015 on the file of the Principal District Judge, Dharmapuri.

For Appellant : Mr.V.Sekar

For Respondents : Mr.P.Harish

Government Advocate for R2



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C.M.A. No.1454 of 2016



JUDGMENT

This Civil Miscellaneous Appeal is filed against the fair and decreetal order dated 22.03.2016 in P.O.P.No.2 of 2015 on the file of the Principal District Judge, Dharmapuri.

2. The appellant filed a suit for damages against the Doctor/1st respondent herein who is said to have given treatment to his wife. In the said suit, since the appellant has no means to pay the Court fees, he filed a petition in P.O.P.No.2 of 2015 before the Principal District Court, Dharmapuri to declare him as a Pauper. The said petition was dismissed by order dated 22.03.2016 since the District Collector was not impleaded as a party.

3. Challenging the said order of dismissal, the appellant has filed the present appeal.

4. Pending appeal, the 1st respondent died and despite this Court had directed the learned counsel for the 1st respondent to take steps to bring on record the legal heirs of the deceased 1st respondent, no steps were taken



and hence, this Court by order dated 18.07.2023, dismissed the appeal as abated as against the 1st respondent.

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5. Pending appeal, the District Collector, Dharmapuri, was impleaded as a 2nd respondent in this appeal. Though a report was called for, there was no proper response from the Government. After taking efforts, this Court had directed the Government Advocate appearing for the 2nd respondent/District Collector to give a report through revenue authority viz., Tahsildar. But still this Court feels that the Government Officials have not properly responding. Even the Tahsildar does not know how to find out the solvency of the appellant. This is how the Government Departments are running with inefficient people. Even the payment of Court Fees is between the Government and the parties and the Court is only to find out as to whether the litigant, who has approached the Court has correctly valued and correctly paid the Court fees. The ultimate beneficiary is the Government. But the Government has not given proper response to find out as to whether the appellant has got means to pay the Court Fees or not.



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6. Even after the District Collector is added as a party as a 2nd respondent in this appeal, he has not proved that the appellant has got sufficient means to pay the Court fees and despite that, he has failed to pay the Court fees.

7. Under these circumstances, the order passed by the Principal District Judge, Dharmapuri, in P.O.P.No.2 of 2015 dated 22.03.2016, is set aside and the appellant is declared as a Pouper. The appellant is exempted from the payment of Court Fees at the first instance. The District Court is directed to take the suit filed by the appellant on file by granting exemption of Court fees at the first instance. However, after the outcome of the trial, the trial Court can decide regarding the payment of Court Fees in accordance with law at the later stage.

8. With the above observations, this Civil Miscellaneous Appeal is Allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

01.09.2023

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Index : Yes / No



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Speaking Order : Yes / No
Neutral Citation Case : Yes/No

C.M.A. No.1454 of 20





To

1. The Principal District Judge, Dharmapuri.

2. The Section Officer,
VR Section, High Court, Madras.

C.M.A. No.1454 of 20



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C.M.A. No.1454 of 2018



P.VELMURUGAN. J.

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C.M.A. No.1454 of 2018

01.09.2023