



W.P(MD)No.10624 of 2019

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.01.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.10624 of 2019**

A.Vedharani

... Petitioner

Vs

1.XXX

*(R.1 is deleted vide order of this  
Court dated 03.01.2022 in  
W.M.P(MD)No.9999 of 2019)*

2.The Director,

Directorate of Family Welfare,  
359, Anna Salai, DMS Complex,  
Chennai – 600 006.

3.The District Collector,

Sivagangai,  
Sivagangai District.

4.The Joint Director (Health),

Medical Office,  
Sivagangai,  
Sivagangai District.

5.The Chief Civil Surgeon,

Block Medical Officer,  
Government Primary Health Centre,



**W.P(MD)No.10624 of 2019**

Kalaiyarkovil,  
Sivagangai District.

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6.Dhandapani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to take immediate action against the persons who are all responsible for the Operation done to the petitioner in an negligent manner on 15.05.2015 and also to pay a sum of Rs.10 Lakhs as compensation towards sufferings, loss and mental agony caused to the writ petitioner by considering the petitioner's representation, dated 24.12.2018, within the time limit fixed by this Court.

For Petitioner : Mr.VR.Shanmuganathan  
for Mr.AL.Kannan

For Respondents : Mr.G.Suriyananth  
Additional Government Pleader  
for R.2 to R.5

No Appearance for R.6

R.1 - Deleted

### **ORDER**

Heard the learned counsel on either side.

2. The petitioner underwent family planning operation in Government Hospital, Kalaiyarkovil on 01.05.2015. The sixth respondent carried out the operation. The specific allegation of the petitioner is that the operation was not



W.P(MD)No.10624 of 2019

done properly and a thread was negligently left inside her abdomen. The petitioner alleges that she was having severe pain for more than three years and she had to spend considerable amount for removing the blue colored thread measuring 30-40 cm. Claiming compensation for the allegedly negligent act, this writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The respondents have filed a counter denying the averments set out in the affidavit. This Court also took the assistance of the fourth respondent / Dr.Yogavathi, Deputy Director, Family Welfare, Sivagangai. The specific stand of the fourth respondent is that the sixth respondent was justified in using even a non-absorbable thread for suturing the wound. She pointed out that there are three layers. Since there are two upper layers over the suture in question in the very nature of things the thread will have to be necessarily left in the abdomen and it cannot be removed. She also relied on standard textbooks in support of her contention.

4. This is not a case in which the writ Court can straightaway come to any conclusion that there was medical negligence on the part of the sixth respondent. Since factual aspects are involved, the petitioner will have to establish her case only before the jurisdictional civil Court. I grant liberty to



**W.P(MD)No.10624 of 2019**

the petitioner to file such a civil suit. If such a suit is filed within a period of three months from the date of receipt of a copy of this order, the same will be entertained without reference to limitation. I make it clear that I have not gone into the merits of the matter. All the contentions of the writ petitioner are left open. This writ petition is disposed of accordingly. There shall be no order as to costs.

**03.01.2023**

Index : Yes / No  
Internet : Yes/ No  
NCC : Yes / No  
MGA

To

- 1.The Director,  
Directorate of Family Welfare,  
359, Anna Salai, DMS Complex,  
Chennai – 600 006.
- 2.The District Collector,  
Sivagangai, Sivagangai District.
- 3.The Joint Director (Health),  
Medical Office,  
Sivagangai,  
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W.P(MD)No.10624 of 2019

G.R.SWAMINATHAN, J.

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W.P(MD)No.10624 of 2019

03.01.2023