

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-12-2022

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**CRP SR No.146353 of 2022**

**And**

**CMP No.22737 of 2022**

1.The Dean,  
Government Medical College Hospital,  
Thiruvarur Munsif and Taluk,  
Thiruvarur District.

2.The District Collector,  
District Collector Office,  
Thiruvarur Munsif and Taluk,  
Thiruvarur District.

.. Petitioners

vs.

Vijayakumari

.. Respondent

**PRAYER** : This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the judgment and decree dated 29.09.2022 passed in EP No.86 of 2017 in OS No.20 of 2015 on the file of the learned Principal Subordinate Judge, Thiruvarur.

For Petitioners : Mr.A.Edwin Prabhakar,  
Special Government Pleader (CS).

**ORDER**

The present Civil Revision Petition has been filed to set aside the attachment order passed by the Sub Court, Thiruvarur in EP No.86 of 2017 in OS No.20 of 2015 dated 29.09.2022.

2. The petitioners are Dean, Government Medical College Hospital and the District Collector, Thiruvarur District. The respondent instituted a suit in OS No.20 of 2015 claiming compensation for medical negligence committed by the Doctors in the Government Medical College and Hospital at Thiruvarur by conducting surgery erroneously in the eye, the respondent-plaintiff lost her vision and became totally blind.

3. The respondent-plaintiff was unable to be treated further and lost her vision. Under those circumstances, the respondent instituted a suit

and the Sub Court Thiruvarur adjudicated the issues and delivered a judgment and decree granting a sum of Rs.5 lakhs towards compensation and a direction was issued to pay the compensation amount, within a period of three months from the date of judgment. The said judgment and decree passed in OS No.20 of 2015 became final and no appeal was preferred by the revision petitioners-defendants. Thereafter, the respondent-plaintiff filed EP No.86 of 2017 and the execution proceedings were pending before the Sub Court for the past about 5 years. Finally, the Execution Court passed an order on 29.09.2022 attaching the movables in the Office of the revision petitioners-defendants and challenging the said order, the present Civil Revision Petition is filed.

4. The revision petitioners have received notice in the execution proceedings. The decree was passed on 01.12.2016. The revision petitioners have not taken any steps to set aside the ex parte decree. Even during the pendency of the execution proceedings, an Interlocutory Application was filed to set aside the ex parte decree by condoning the long delay. Since the

delay was more than 900 days, the delay petition was dismissed and against which, the Civil Revision Petition was filed, which is yet to be considered by the High Court.

5. Unconardonable delay cannot be condoned by the Courts. In the present case, the Trial Court has dismissed the Interlocutory Application and the decree became final. Consequently, an order of attachment was passed in the execution proceedings in EP No.86 of 2017.

6. The learned Special Government Pleader (CS) appearing on behalf of the revision petitioners-defendants mainly contended that the order of attachment will cause inconvenience to the Public Institution as the revision petitioners are Government Medical College and Hospital and the Collectorate. The revision petitioners have already filed Civil Revision Petition against the order of dismissal passed by the Trial Court, dismissing the condone delay petition filed to set aside the ex parte decree.

7. In the context of the facts and circumstances and perusal of the judgment passed in OS No.20 of 2015, this Court found that the respondent-plaintiff established the medical negligence before the Trial Court as the eye surgery was done erroneously in the case of the respondent-plaintiff and she lost her vision totally and became blind.

8. Under these circumstances, the respondent-plaintiff victim cannot made to run pillar to post for realisation of the compensation amount, which was granted by the Trial Court in the year 2016 itself. If at all the revision petitioners are of the opinion that they have got a better case, they should have initiated appropriate steps within a reasonable period of time. Now after a lapse of about six years from the date of decree, if a lenient view is taken by this Court, then the same will result in an injustice to the medical victim, who lost both her eyes and became blind totally on account of the surgery conducted in the Government Medical College Hospital at Thiruvarur.

9. The High Court, being a Court of Justice, even in execution proceedings has to consider these mitigating factors, so as to ensure complete justice to the parties. The revision petitioners in the present case slept over the opportunity available to them under the Code of Civil Procedure and now after a lapse of about six years and after passing an order of attachment of movables by the Execution Court, they cannot come forward for the purpose of reopening the suit, which was disposed of in the year 2016.

10. In such circumstances, when the Public Officials have committed an act of negligence, lapses or dereliction of duty, the financial loss caused to the State Exchequer are to be recovered from such Public Servants, who all are responsible and accountable for the financial losses.

11. In the present case, the State has to pay the compensation amount and thereafter recover the same amount from the Doctors and the Officials, who have committed an act of medical negligence, administrative

lapses or dereliction of duty. The financial loss to the public is to be recovered proportionately by fixing the responsibility amongst all the officials, who have committed an act of administrative lapses, negligence and dereliction of duty. In this regard, the revision petitioners are bound to conduct an enquiry and initiate all appropriate action following the Service Rules, which all are applicable.

12. As far as the present Civil Revision Petition is concerned, this Court do not find any reason to interfere with the order of attachment passed by the Execution Court. However, in order to protect decorum of the Public Office and not to cause any inconvenience to the public, who all are availing the services of the Government Department in Government Medical College Hospital, the following orders are passed.

13. The revision petitioners are directed to deposit the decree amount of Rs.5 lakhs to the credit of the Execution Court in EP No.86 of 2017 in OS No.20 of 2015 on or before 10.01.2023 and on such deposit, the

Execution Court can disburse the said compensation decree amount to the respondent-plaintiff on or before 30.01.2023. In the event of failure on the part of the revision petitioners to deposit the decree amount to the respondent on or before 10.01.2023, the Execution Court shall proceed for attachment of the properties as per the order dated 29.09.2022. The order of attachment dated 29.09.2022 is kept in abeyance till 10.01.2023.

14. With the abovesaid directions, the present Civil Revision Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**The Registry is directed to communicate the copy of this order to the respondent-plaintiff, namely, Mrs.S.Vijayakumari.**

**23-12-2022**

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Svn

To

- 1.The Dean,  
Government Medical College Hospital,  
Thiruvarur Munsif and Taluk,  
Thiruvarur District.
- 2.The District Collector,  
District Collector Office,  
Thiruvarur Munsif and Taluk,  
Thiruvarur District.
- 3.Mrs.S.Vijayakumari,  
W/o.Stalin,  
No.39, Semmangudi,  
North Street,  
Semmangudi Post,  
Nannilam Munsif,  
Kodavasal Taluk,  
Thiruvarur District.

**Note: Registry is directed to issue order copy by today itself.**

CRP SR No.146353 of 2022

**S.M.SUBRAMANIAM, J.**

Svn

CRP SR No.146353 of 2022

23-12-2022