



Citation : CDJ 2018 MHC 8330

Court : Before the Madurai Bench of Madras High Court

Case No : CRP(NPD). No. 1643 of 2010 & MP. Nos. 1 of 2010 & 1 of 2012

Judges : THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Parties : D. Govindasamy Versus L. Ganesh Naidu (Deceased) & Others

Appearing Advocates : For the Petitioner: A. Saravanan, Advocate. For the Respondents: R2 & R3, K.S. Arumugam, Advocate.

Date of Judgment : 20-06-2018

Head Note :

Civil Procedure Code - Section 115 -

Judgment :

(Prayer: Petition filed under Section 115 of CPC., r/w Section 6-B The Tamil Nadu Cultivating Tenants Protection Act, 1955, to call for the records in respect C.T.P.No.43 of 1992 on the files of Assistant Commissioner (Revenue Court), Cuddalore and set aside the order dated 15.02.2010.)

1. This Civil Revision Petition has been filed to call for the records in C.T.P.No.43 of 1992 on the file of Assistant Commissioner (Revenue Court), Cuddalore and set aside the order dated 15.02.2010 passed therein.
2. Heard the learned counsel appearing for the petitioner as well as the respondents.
3. Earlier, this Court, by the order dated 27.03.2018 referred this matter to the Mediation and Conciliation Centre, Chennai, for effecting settlement.
4. Today, i.e., 20.06.2018, when the matter is taken up for hearing through Video Conferencing, it is represented by both sides that the matter has been amicably settled before the Mediation and Conciliation Centre, Chennai and to that effect, a report has been filed by the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras dated 20.04.2018.
5. A perusal of the said report would disclose that both petitioner and respondents 2 and 3 appeared before the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras and arrived at an amicable settlement and to that effect, a joint memo of compromise dated 20.04.2018 was entered into by both the parties. The learned counsel for both sides have also counter-signed the said memo of compromise. The Mediation Report along with joint memo of compromise dated 20.04.2018 shall form part of this order.
6. Recording the above Mediation Report dated 20.04.2018, this Civil Revision Petition is disposed

of.

7. The learned counsel appearing for the respondents 2 and 3 submitted that the respondents 2 and 3 are willing to contribute some amount to any of the welfare organisation, as per order of this Court.

8. At this juncture, I feel it appropriate to mention that pollution, the variants of which are many - like Air pollution, Water pollution, Sound pollution etc.- would deteriorate the sources of life not only to the human beings but millions of living organisms on Earth.

9. Right to clean environment is now recognized as one of the Fundamental Rights, covered under Right to Life , under Article 21 of the Constitution of India by the Hon ble Supreme Court. While, thus, the right to clean environment is covered under Right to Life guaranteed under Article 21 of the Constitution of India, it follows, that a fundamental duty is cast on every citizen of this great country, to protect natural environment, as has been envisaged under Article 51-A of the Constitution of India. A duty is also cast on this Court to protect Mother Nature so as to be cherished by our future generations.

10. Trees are the sources of bread and breath of living organisms on Earth. Therefore this Court is of the firm view that protection of environment, by planting more trees would help clean environment and effectively combat drastic and dangerous pollution. In matters, where parties were voluntarily willing to contribute some amount to any welfare measures, this Court, on earlier occasions was ordering remittance of amounts to various organizations under different heads. Therefore, this Court is of the firm view that it is appropriate that the cost should also be paid to the Environmental Fund for the purpose of plantation etc., as stated below and passes the following guidelines to the Tamil Nadu Legal Services Authority, Chennai.

1) The Member Secretary, Tamil Nadu State Legal Services Authority, Chennai shall open a separate account under the head Environmental Fund , so as to deposit the amounts received from various Courts under this head and to be utilized for the purposes narrated hereunder.

2) The amount received under the head Environmental Fund shall be utilized for the purpose of planting, developing and maintaining trees by The Member Secretary, Tamil Nadu State Legal Services Authority, Chennai.

3) The said fund can also be made use of for the purposes of cleaning and maintaining water bodies, which are the streams of life.

4) The Taluk Legal Services Committees can identify the places to plant saplings, with the help of the officials of the local bodies and submit a proposal to the concerned District Legal Services Authority, mentioning clearly the variety and number of saplings proposed to be planted, the costs involved therein, including fencing. The Taluk Legal Services Committees shall ensure proper watering and maintenance of the saplings through the respective local bodies, PWD, voluntary organisations and N.G.Os.

5) The District Legal Services Authorities shall submit a consolidated proposal to the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, requesting for release of amounts from the Environmental Funds towards planting, developing and maintaining trees in the Court / public premises by specifying clearly the type and number of saplings required, cost involved therein etc. The procurement, to the extent possible, shall be from the District Forest / Horticulture Departments.

6) While doing plantation, development and maintenance of plants, the District Legal Services Authority / Taluk Legal Services Committee can make use of the services of the respective officials

in the forest department/ Horticulture department/PWD/Local authorities and ensure proper watering, fencing etc. of the saplings so planted.

7) The District Legal Services Authority/ Taluk Legal Services Committee can take expert advice of the Forest Department/ Horticulture Department/ Local authorities in choosing the type of saplings to be planted in a specific area, by keeping in mind the local environment conditions and healthy growth of the plants and also the usage of the plants.

8) If fruit / vegetable bearing trees are planted, the concern District/ Taluk Legal Services Authority would take steps to market the produce, if any from such plantations and remit such amounts in the account maintained by The Member Secretary, Tamil Nadu State Legal Services Authority, Chennai under the head Environment Fund.

9) A similar account may also be opened by the Member Secretary, Puducherry Legal Services Authority and follow the above directions.

10) The Registry is directed to circulate a copy of this Order to all the Subordinate Courts in the state of Tamil Nadu and Union Territory of Puducherry, after obtaining necessary orders from The Hon ble The Chief Justice, so that the Presiding Officers of the respective Courts, while ordering costs to be paid by the parties in any matter, may consider direction to the respective parties for payment of the costs towards the Environmental Fund maintained by the Member Secretary of the respective State Legal Services Authority.

11) Whenever costs are ordered and received by any of the Courts under the above said Fund, the same shall be remitted to the Account of the Environmental Fund , to be maintained hereafter by the Member Secretary, Tamil Nadu State Legal Services Authority without any delay and communication in this regard shall be sent immediately to the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, with a copy marked to the respective District Legal Services Authority. For this purpose, a separate challan book may be maintained by the respective Courts, if need be. The procedural instructions, needed in effective implementation, can be issued by the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai and the Member Secretary, Puducherry State Legal Services Authority, Pondicherry, as and when required.

12) The above instructions will also apply mutatis mutandis to the High Court Legal Services Committee, both at the Principal Seat and at Madurai Bench, who shall coordinate with the respective District Legal Services Authorities i.e. Chennai and Madurai District Legal Services Authorities and the Tamil Nadu State Legal Services Authority.

13) While at the principal seat, the costs so ordered by the Hon ble Courts to be remitted by the parties directly at the office of the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, at the Madurai Bench, the said amounts shall be collected by the Registry through the Accounts Section and then credited into the account maintained by the Member Secretary, Tamil Nadu State Legal Services Authority, immediately.

11. Now, at the instance of the learned counsel for the respondents 2 and 3, the respondents 2 and 3 themselves voluntarily came forward to contribute some amount to the Taluk Legal Services Committee, Kangeyam, Tirupur District under the Head of Environmental Fund to preserve the environment. Hence, the respondents 2 and 3 are directed to collectively remit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as costs within a period of two weeks from the date of receipt of a copy of this order, by way of a Demand Draft drawn in favour of the Secretary, Taluk Legal Services Committee, Kangeyam, Tirupur District, who shall receive the said amount as Environmental Fund and make use of the said amount for the purposes mentioned above. A report in this regard shall be sent by the Secretary, Taluk Legal Services Committee, Kangeyam, Tirupur

District to the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, mentioning clearly the amounts spent towards the purposes mentioned above and the balance amount left etc., No costs. Consequently, M.P.Nos.1 of 2010 and 1 of 2012 are closed.

This petition has been listed today under the caption for being mentioned at the instance of the petitioner.

2.The learned counsel appearing for the petitioner submitted that the joint compromise memo filed by both the parties on 20.06.2018, showing the amount received by the petitioner and subsequently handing over the possession of the property to the respondents, has not been incorporated in the order passed in CRP (NPD)No.1643 of 2010.

3.In view of the said submission, the last sentence of Para No.5 and para No.6 of the order dated 20.6.2018, shall be substituted as follows respectively:-

The Mediation Report dated 20.04.2018 and the Joint Memoranda of compromise dated 20.04.2018 and 20.06.2018 shall form part of this order .

Recording the above Mediation Report dated 20.04.2018 and 20.06.2018, this Civil Revision Petition is disposed of.4. Guideline No.8 in Para 10 of the order dated 20.06.2018 shall stand deleted. The existing guideline No.10 in para No.10 of the order dated 20.6.2018 shall be substituted as follows:

The Registry is directed to circulate a copy of this Order to all the Subordinate Courts in the state of Tamil Nadu and Union Territory of Puducherry. It is open to the Presiding Officers of the respective Courts, while ordering costs to be paid by the parties in any matter, to direct the parties to remit such costs amount towards the Environmental Fund maintained by the Member Secretary of the respective State Legal Services Authority.

5. Registry is directed to re-number the guidelines in Para No.10 accordingly and issue fresh order copy to all the parties concerned, after carrying out the above corrections and modifications.