
(2015) 03 MAD CK 0379

In the Madras High Court

Case No : Writ Petition (MD) No. 2786 of 2009

K. Jegannathan

APPELLANT

Vs

The Divisional Engineer, National Highways and Others

RESPONDENT

Date of Decision : 31-03-2015

Acts Referred:

Citation : (2015) 2 LW 750

Hon'ble Judges : V.M. Velumani, J

Bench : Single Bench

Advocate : M. Ashok Kumar, for the Appellant; M. Murugan, Govt. Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

V.M. Velumani, J.

1. The petitioner has filed the present Writ Petition praying to direct the Respondents 1 to 3 to pay a sum of Rs. 2,44,211/- (Rupees Two Lakhs and Forty Four Thousand and Two Hundred and Eleven only) being the amount due to the petitioner towards one half of Advocate Fees for the cases conducted by him as Additional Public Prosecutor-Cum-Additional Government pleader in Fast Track Court, Virudhunagar. The petitioner was appointed as Additional Public Prosecutor-Cum-Additional Government Pleader by the third respondent for the Fast Track Court-I, Virudhunagar on 17.06.2003 and he was working till 21.08.2006.

2. The petitioner appeared and conducted three cases namely O.S. Nos. 2, 3 and 4 of 2005 filed by one Savarimuthu a contractor claiming damages to the tune of Rs. 3,30,40,400/- in O.S. No. 2 of 2005, Rs. 130,85,742/- in O.S. No. 3 of 2005 and Rs. 20,26,337/- in O.S. No. 4 of 2005. According to the petitioner, he appeared and conducted all the suits on behalf of the respondents 1 to 3 as Additional Government Pleader from the date of filing of the suit. He got instructions from the respondents and prepared written statement and attending

the Court till 21.08.2006 when his tenure came to an end. After expiry of tenure, the petitioner handed over all the bundles to the fourth respondent. The respondents 1 to 3 have not given any fees to the petitioner for handling the cases. Therefore, the petitioner has approached this court by way of writ petition for claiming 50% of the fees as per the Tamil Nadu Legal Practitioners Fees Rules 1973 Rule 3(2)(1).

3. The first respondent has filed a counter affidavit stating that after conclusion of trial in the suits, the fourth respondent claimed fees and the same was referred to Government for orders. While, the matter was pending before the Government, the petitioner has filed the present writ petition. The first respondent stated that he will abide the order passed by this Court.

4. The fourth respondent has also filed a counter affidavit. It is stated that after receiving the suit bundles, he cross-examined the witnesses and argued the matter on number of occasions after receiving the instructions from the respondents 1 and 2. The petitioner did not conduct the trial and therefore, he is not entitled to full fees. The Tamil Nadu Legal Practitioners Fee Rules 1973 Rule 3(2)(1) is not applicable to the petitioner's case and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6. It is admitted case that the petitioner was originally engaged by the respondents 1 to 3 to conduct the cases. The petitioner got instructions and prepared written statement and filed into Court. The petitioner attending the hearing till his tenure came to an end. After that only, the fourth respondent was engaged to conduct the trial. It is not the case of the petitioner that he conducted trial. He is claiming fees for handling the case and for filing the written statement. Therefore, he is entitled to fees for the work done by him.

7. In the above circumstances, the respondents 1 to 3 are directed to consider the claim of the petitioner based on Tamil Nadu Legal Practitioners Fees Rules 1973 Rule 3(2)(1) applicable to the Government Pleader and to pay fees to the Government Pleader up to the stage of handling the case and filing the written statement, within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs.