

Govt. of T.N. and another

Vs

R. Thillaivillalan

I.A. No. 2 of 1991 in Civil Appeal No. 4400 of 1989

(M.N. Venkatachaliah, M.M. Punchhi JJ)

06.03.1991

ORDER

1. Sri Thillaivillalan is an Advocate who was appearing for the Corporation of the City of Madras in several of its cases. He was engaged to appear for the Corporation in a large number of cases in various Courts in the City of Madras. Some dispute having arisen touching the remuneration for his professional services to the Corporation, he brought a writ petition before the High Court for issue of appropriate directions to the Corporation to settle and pay remuneration for the professional services rendered by him. The Corporation resisted the proceedings on several grounds, including the one that the High Court in exercise of its jurisdiction under Art. 226 should decline to go into such a matter. The learned single Judge of the High Court was persuaded to this view and dismissed the writ petition. But in appeal the learned judges of the Division Bench, however, thought that there should be no impediment to relief being confined to what appeared to them to be undisputed parts of the claim. The Division Bench relied upon the figures furnished by the Corporation itself and came to the conclusion that, at all events, even if all the deductions claimed by the Corporation were accepted a sum of Rs. 84,212.21 would yet remain due and payable to the respondent. This sum, the High Court directed the appellants to pay along with interest at 12% per annum. The Appellant-Corporation has brought this appeal by special leave.

2. We have heard Sri V. Krishnamurthy, learned counsel for the appellants and Sri K. K. Venugopal, learned senior counsel for the respondent.

3. Having regard to the figures and state of accounts discussed by the Division Bench in arriving at the sum of Rs. 84,212.21 as payable to the respondent, it appears unnecessary to traverse the factual position over again. The principal grievance of the appellants is not so much as to the correctness of the quantification as it is the very permissibility of relief in exercise of jurisdiction under Art. 226. Appellants say that, at all events, on the facts taken into account by the High Court, the award of interest was wholly unjustified.

4. Both contentions are eminently unarguable. But it appears to us that having regard to the lapse of time and the contentions of appellants if accepted would only serve to expose both parties to a fresh bout of litigation, it is reasonable that this controversy should be settled. We have also taken into account the views of the learned counsel on both sides as to what should be a reasonable basis for determination and settlement of the dispute.

5. On a consideration of the matter, we think that the quantification of the sum payable at Rs. 84,212.21 does not call for interference. This has been arrived at after allowing all the deductions claimed by the appellants. The deductions include a sum of Rs. 48,937.96 which was stated to have

been paid by the appellants to the respondent towards expenses and which, according to the appellants, has not been accounted for. In respect of this item the High Court has in para 17 of the judgment issued certain directions. It is necessary to refer to and excerpt the relevant portion of the judgment :

"It is claimed by the appellant that regarding the excess of advance amount of Rs. 48,937.96, which is referred to in page 5 of the statement of account filed by the Corporation, he has already furnished detailed statements regarding the expenses incurred pertaining to the said advance amount received and that it is the Corporation which will have to pay a sum of nearly Rs. 500/- to him and that he had rendered full detailed accounts for the expenses incurred out of the said amount. The respondent-Corporation is granted three months time from this date to take a decision as to whether the said amount had been accounted for or not. If within the said time, it does not take a decision based on the accounts already submitted by him, then the amount of Rs. 48,937.96 cannot be deducted out of the amounts which have become payable to him and along with it the sum of Rs. 500/- claimed by him will also have to be paid within one month from that date with interest as mentioned hereunder."

6. After hearing learned counsel on both sides the order that commends itself as appropriate having regard to all the circumstances of this case is to direct the Corporation to pay a sum of Rs. one lakh, lump sum, to the respondent which shall include Rs. 84,212.21 determined by the High Court as well as the liability for any interest thereon. In other words, the liability for interest is limited to the difference between Rs. one lakh and Rs. 84,212.21. The Corporation shall pay the aforesaid amount to the respondent within 3 weeks from today. This shall settle the entire controversy between the parties in regard to the payment of fee, excepting the claim adverted to by the High Court in para 17 of its judgment.

7. As stated earlier in arriving at the figures of Rs. 84,212.21 the High Court has kept the claim relating to Rs. 48,937.96 separately to be dealt with in terms of its directions in para 17 of its judgment. The High Court has directed the appellant to examine the accounts of expenditure and appropriation of this sum of Rs. 48,937.96 furnished by the respondent and satisfy itself whether the explanation and accounts so submitted are acceptable to it. It goes without saying that if respondent establishes to the satisfaction of the appellant-Corporation that the said sum of Rs. 48,937.96 has been properly accounted for, the respondent shall be entitled to the reimbursement of the sum of Rs. 48,937.96 or such part thereof as may be shown to have been properly expended on behalf of and for the benefit of the appellant Corporation. The directions contained in para 17, we are told have not been complied with and effectuated by the appellants so far. We direct the appellants to go through that exercise within a period of 3 months from today and take appropriate decision and make the appropriate and proportionate refund.

8. There is one other matter. It would appear that the respondent has moved the High Court in contempt for the alleged noncompliance of the High Court's directions. Sri Venugopal submitted that in view of the present order his client would withdraw the complaint of contempt. This submission is placed on record.

9. Appeal is disposed of accordingly. No costs.

Order accordingly.

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