

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 9465 of 2014 (G)

PETITIONER(S):

**PUSHPALATHA. C., P & T QUARTERS,
THIRUMULLAVARAM, KOLLAM-12.**

**BY DR.K.P.SATHEESAN, SENIOR ADVOCATE.
ADVS. SRI.M.R.JAYAPRASAD,
SRI.P.MOHANDAS (ERNAKULAM),
SRI.ANOOP.V.NAIR,
SRI.S.VIBHEESHANAN.**

RESPONDENT(S):

- 1. THE TAHSILDAR, TALUK OFFICE,
KUNNATHOOR TALUK, SASTHAMCOTTA,
KOLLAM DISTRICT-690 521.**
- 2. THE ASSISTANT GENERAL MANAGER (ADMINISTRATION),
OFFICE OF THE GENERAL MANAGER,
BHARAT SANCHAR NIGAM LTD.,
TELECOM DISTRICT, KOLLAM-691 001.**
- 3. RADHAMMA, RADHA MANDIRAM,
MYNAGAPPALLY P.O., KOLLAM-690 519.**
- 4. MADHAVANKUTTY PILLAI, KATTUVILAYIL HOUSE,
MYNAGAPPALLY P.O., KOLLAM-690 519.**
- 5. SUMANGALAYAMMA, KATTUVILAYIL HOUSE,
MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O.,
KOLLAM-690 519.**
- 6. APPUKUTTAN PILLAI, HAREESH BHAVAN,
MYNAGAPPALLY P.O., KOLLAM-690 519.**
- 7. MANIAMMA, KATTUVILAYIL HOUSE,
MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O.,
KOLLAM-690 519.**

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**8. REGHUNATHAN PILLAI, KATTUVILAYIL HOUSE,
MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O.,
KOLLAM-690 519.**

R1 BY GOVT. PLEADER SMT.C.K.SHERIN

R2 BY ADVS. SRI.V.V.SURESH, SC, BSNL.

SRI.MATHEWS K.PHILIP, SC, BSNL.

R3 TO R7 BY SRI.KURIAN GEORGE KANNANTHANAM, SENIOR ADVOCATE.

ADV. SRI.TONU GEORGE KANNANTHANAM.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11/03/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE WEDDING INVITATION LETTER SHOWING THE MARRIAGE OF THE PETITIONER DATED 06/11/2008.
- EXT.P2 COPY OF THE MARRIAGE 'PATHRIKA' ISSUED BY S.N.D.P. BRANCH SECRETARY, KUNDARA DATED 01/06/2008.
- EXT.P3 COPY OF THE INTIMATION LETTER ISSUED BY THE MEMBERS OF THE FAMILY OF BHADRAN PILLAI DATED 30/03/2009.
- EXT.P4 COPY OF THE DEATH CERTIFICATE ISSUED BY THE CORPORATION OF KOCHI REGARDING THE DEATH OF THE PETITIONER'S HUSBAND BHADRAN PILLAI ON 13/06/2011.
- EXT.P5 COPY OF THE LETTER GIVEN BY THE 2ND RESPONDENT DATED 13/07/2011.
- EXT.P6 COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 17/08/2011.
- EXT.P7 COPY OF THE CERTIFICATE ISSUED BY THE PRESIDENT, EAST KALLADA GRAMA PANCHAYAT DATED 24/06/2011.
- EXT.P8 COPY OF THE MARRIAGE CERTIFICATE ISSUED BY S.N.D.P. YOGAM, EAST KALLADA BRANCH DATED 24/07/2011.
- EXT.P9 COPY OF THE LETTER NO.A3-13004/11 DATED 07/12/2011 GIVEN BY THE FIRST RESPONDENT.
- EXT.P10 COPY OF THE JUDGMENT DATED 04/07/2012 IN WP(C).NO. 1628/2012.
- EXT.P11 COPY OF THE STATEMENT WRITTEN BY THE OFFICE STAFF OF THE FIRST RESPONDENT DATED 13/08/2012.
- EXT.P12 COPY OF THE ORDER NO.A3-13004/2011 DATED 14/08/2012 PASSED BY THE FIRST RESPONDENT.
- EXT.P13 COPY OF THE ORDER NO.B1-520/2013/K.DIS. DATED 19/01/2013 ISSUED BY THE DISTRICT MARRIAGE REGISTRAR GENERAL AND PANCHAYAT DEPUTY DIRECTOR, KOLLAM.
- EXT.P14 COPY OF THE CERTIFICATE OF MARRIAGE ISSUED BY THE SECRETARY, EAST KALLADA GRAMA PANCHAYAT (LOCAL REGISTRAR) DATED 19/01/2013.

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- EXT.P15 COPY OF THE JUDGMENT DATED 29/01/2013 IN
WP(C).NO. 23646/2012.**
- EXT.P16 COPY OF THE PROCEEDINGS OF THE FIRST RESPONDENT
NO.A3-13004/11 DATED 21/03/2013.**
- EXT.P17 COPY OF THE SUCCESSION O.P. NO. 4/2013 FILED BY THE
RESPONDENTS 3 TO 7 BEFORE THE MUNSIFF COURT,
SASTHAMCOTTA.**
- EXT.P18 COPY OF THE JUDGMENT DATED 15/01/2014 IN
WP(C).NO. 12033/2013.**
- EXT.P19 COPY OF THE COMMUNICATION RECEIVED BY THE PETITIONER
FROM THE 2ND RESPONDENT DATED 06/02/2014.**

RESPONDENT'S EXHIBITS:-

- EXT.R3A COPY OF THE ORDER DATED 04/03/2014 IN I.A. NO.1143/2013 IN
O.S. NO.285/2013 OF THE MUNSIFF MAGISTRATE COURT,
SASTHAMCOTTA.**
- EXT.R3B COPY OF THE O.S. NO.285/2013 OF THE MUNSIFF MAGISTRATE
COURT, SASTHAMCOTTA.**
- EXT.R3C COPY OF THE I.A.253/2014 IN O.S. NO.285/2013 OF THE MUNSIFF
MAGISTRATE COURT, SASTHAMCOTTA.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.9465 of 2014

Dated this the 11th day of March, 2015

JUDGMENT

Aggrieved by the inaction on the part of the first respondent in issuing a legal heirship certificate on the application submitted by the petitioner, she has come up before this Court.

2. The petitioner alleges that though the first respondent in a proceedings has concluded that the petitioner is the legally wedded wife of one Bhadran Pillai who is no more, the legal heirship certificate has not been issued so far.

3. The petitioner alleges that Bhadran Pillai married her on 6.11.2008 as per the religious custom and the marriage was solemnised and registered in SNDP Union as it was a customary marriage as per Hindu Ezhava community. She further alleges that after the marriage the petitioner and the deceased were living together at P & T quarters, Kollam. Bhadran Pillai expired on

13.6.2011 while in service. The petitioner applied for family pension and other terminal benefits. However, the second respondent informed that the said benefits could be granted only on production of legal heirship certificate from the Tahsildar. Therefore, she made an application before the first respondent for legal heirship certificate. As the application was rejected, she approached this Court with Writ Petition No.1628/2012 by which the order of the first respondent was quashed and the first respondent was directed to pass fresh orders. The petitioner's request was again rejected by the first respondent.

4. The petitioner alleges that during the pendency of the writ petition, the marriage of the petitioner with Bhadran Pillai was registered under the Kerala Registration of Marriages (Common) Rules 2008 and the Marriage Registrar General has issued the marriage certificate. On the basis of the marriage certificate, the first respondent issued an order giving legal heirship certificate to the petitioner. Respondents 3 to 7

challenged the certificate of marriage before this Court in WPC No.12033/2013. They also filed Succession O.P.No.4/2013 before the Munsiff's Court, Sasthamcotta claiming 5/6 share of terminal benefits of Bhadran Pillai. Thereafter the aforesaid respondent also filed a civil suit before the same court.

5. The petitioner's grievance is that now the first respondent has taken a stand that the certificate could be issued only after the disposal of the civil suit pending before the Munsiff's Court, Sasthamcotta. It is with this background, the petitioners have come up before this Court.

6. A detailed counter affidavit has been filed by the party respondent as well as BSNL. The party respondent contended that there was no valid marriage between Bhadran Pillai and the petitioner. According to them, the petitioner was engaged to clean his residential quarters and she was married to another man and has two children in that relationship and the said marriage has not been legally dissolved to their knowledge. They have also

disclosed the existence of civil suit and other proceedings before the civil court.

7. I have heard the learned senior counsel for the petitioner, the learned senior counsel for the party respondent, the learned standing counsel for BSNL and the learned Government Pleader in the matter.

8. Admittedly, there are pending disputes regarding the alleged marriage between the petitioner and deceased Bhadran Pillai. As there are disputed questions of facts which are to be agitated in the civil suit pending, this Court is not making any pronouncement on those questions as it would be incompetent to do so while exercising the jurisdiction under Article 226 of the Constitution of India.

9. It is true that on the basis of the materials available before the first respondent, he has come to the conclusion that the petitioner was a legally wedded wife of Bhadran Pillai. However, he desisted from issuing legal heirship certificate because of the pendency of the civil suit pending before the Munsiff's Court. The stand taken

by the first respondent is correct in the nature and circumstances of this case. Therefore, this Court is of the definite view that it is only just and proper to give a direction to the Munsiff's Court, Sasthamcotta to dispose of Succession O.P.No.4/2013 as well as O.S.No.285/2013 at the earliest, after affording both sides an opportunity to adduce evidence, at any rate within a period of three months from the date of receipt of a copy of this judgment.

As the mid-summer vacation is approaching, it is hereby made clear that three months' time granted as above shall not include the period of mid-summer vacation.

Registry shall send a copy of this judgment to the Munsiff's Court, Sasthamcotta for compliance.

**sd/-A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE