

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 28943 of 2006 (U)

PETITIONER :

**DIVYA, W/O.LATE CHEVAYIL UNNIKRISHNAN,
PARAKULAM HOUSE, KOTHAKURISSI AMSOM,
THARVAKONAM DESOM,POST THARUVAKONAM,
PANAMANNA, OTTAPALAM.**

BY ADV. SRI.S.ABDUL SALAM

RESPONDENT(S):

- 1. THE TODDY WORKERS WELFARE FUND INSPECTOR,
PALAKKAD.**
- 2. THE SECRETARY, TODDY WORKERS-
WELFARE FUND BOARD, THIRUVANANTHAPURAM.**
- 3. CHEVAYIL MADHAVAN, CHEVAYIL HOUSE,
KOTHAKURISSI AMSOM, KOTHAKURISSI DESOM,
POST .CHERAMPATTAKAVU, PANAMANNA, OTTAPALAM.
(THE THIRD RESPONDENT NOMINEE, NAMELY CHEVAYIL MADHAVAN
DIED ON 06/01/2007 IE AFTER THE DATE OF FILING THE ABOVE WRIT
PETITION)**

**R1 & R2 BY ADV. SRI.K.D.BABU,SC,KTWWFB(TODDY WORKERS WE
BY SRI.ARUN CHANDRAN, AMICUS CURIAE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).NO.28943/2006

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER WITH LATE UNNIKRISHNAN ISSUED BY THE ANNANGADI PANCHAYATH DATED 4/11/2005.**
- P2 COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S HUSBAND ISSUED BY THE ANANGADI GRAMA PANCHAYATH DATED 6/4/2006**
- P3 COPY OF THE PETITION DATED 28/10/2006 FILED BY THE PETITIONER TO THE FIRST RESPONDENT**
- P4 COPY OF THE DEATH CERTIFICATE OF MADHAVAN THIRD RESPONDENT ISSUED BY THE ANANGADI PANCHAYATH**
- P5 COPY OF THE LEGAL HEIR CERTIFICATE ISSUED BY THE TAHASILDAR OTTAPALAM 01/07/2007, IN FAVOUR OF THE PETITIONER.**
- P6 COPY OF THE AFFIDAVIT PREPARED BY THE PETITIONER AND NOTARIZED DATED 20/102008**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

K. Vinod Chandran, J.

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W.P.(C)No.28943 of 2006

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Dated this the 5th day of February, 2015.

JUDGMENT

1. A hapless widow is before this Court seeking release of the welfare fund due to her as the legal heir of one Unnikrishnan, who was a registered toddy tapper under Kerala Toddy Workers' Welfare Fund scheme. The hapless situation of the widow is further accentuated by the fact that, neither the petitioner's counsel nor the respondent Board's counsel are present, when the matter was taken up for hearing. This Court, hence, appointed Sri.Arun Chandran, advocate, as amicus curiae and after perusal of the pleadings, learned counsel has argued the matter.
2. Petitioner, admittedly, is the wife of Unnikrishnan, who died on 14.4.2006, in a to drowning accident. The marriage of the petitioner and the deceased Unnikrishnan is said to have been solemnized on 4.11.2005 and registered in the Anangadi Panchyat, Ottappalam on

16.11.2005. Petitioner contends that, her husband, who was a toddy tapper and prior to the marriage, had nominated his father under the Welfare Fund Scheme. Subsequent to his marriage, admittedly, the nomination was not changed.

3. On the death of the said Unnikrishnan, the father preferred an application for release of the welfare fund. Petitioner, hence, moved the writ petition, impleading her father-in-law as the third respondent, laying a claim to the welfare fund due to her deceased husband. Petitioner has also produced Ext.P5 legal heirship certificate, where her name is also shown along with the name of the father of the deceased.
4. The father, the third respondent in the writ petition, died on 6.1.2007, when the writ petition was pending. Ext.P4 produced in the amended writ petition is the death certificate of the said respondent, the father of the petitioner's husband.
5. The legal heirs shown in Ext.P5 certificate are the father and the wife

of the deceased. Hence, on the father's death, definitely, the welfare fund has to be released to the petitioner. It is also to be noticed that a nomination is not conclusive as far as a succession is concerned. A person nominated to receive the amounts would only hold the same in trust and would not alter the course of succession under law as has been held in **Safia Usman v. Habeebah (2005 (1) K.L.T. S.N.84)**.

In any event, that question need not considered or answered, since, admittedly, the father of the deceased is also no more. The Welfare Fund Board shall release the dues with interest at the rate of 9%, as provided under the Act, within a period of two months from the date of receipt of a copy of this judgment. The Registry shall communicate the above judgment to the petitioner as also the Welfare Fund Board.

Writ petition is allowed.

K. Vinod Chandran, Judge.

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