

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2015

CORAM

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.20425 of 2014

S. Shanmuga Vadivu

... Petitioner

Vs.

1. The District Collector,
Kanchipuram.
2. The Managing Director,
Tamil Nadu State Transport Corporation
Villupuram Region,
Villupuram District.
3. The General Manager,
Tamil Nadu State Transport Corporation
Villupuram Region,
Kaarai Pettai, Kanchipuram District.
4. The Branch Manager,
Indian Overseas Bank,
Nallammai Nagar Branch,
Dharapuram, Tiruppur District.
5. The Tahsildar,
Kanchipuram Taluk, Kanchipuram.

6... Indhirani

R-6 impleaded, as per order, dated 25.09.2014, passed
in M.P.No. of 2014 of this W.P.

... Respondents

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to allow the petitioner to get the pension benefit after the death of her husband, who was the Government Servant (Bus Driver) and consider the petitioner's representation letter, dated 21.03.2014.

For Petitioner : Mr.M.Senthamizh Selvan
For Respondents 1 and 5 : Mr.R.Vijayakumar
Additional Government Pleader
For Respondents 2 and 3 : Mr.P.Kannan Kumar
For Respondent-4 : No appearance
For Respondent- 6 : Mr.D.Selvaraju

O R D E R

This Writ Petition has been filed, seeking mandamus upon the respondents to allow the petitioner to get the pensionary benefits after the demise of her husband-Shanmugam, who was working as the Driver in the respondent-Transport Corporation.

2. The dispute arose on account of the claim made by the sixth respondent, who claims that she is the lawfully wedded wife of Shanmugam. The petitioner does not dispute the fact that Shanmugam initially married the sixth respondent, but her (petitioner's) case is that, the said Shanmugam and the sixth respondent were living separately for seven years, and they had filed a Petition for divorce in H.M.O.P.No.20 of 1990, however, the same was dismissed for default on 30.08.1996. The petitioner claims to have married Shanmugam in the year 1997, and that she has been living with him, but there are no children out of the wedlock. The petitioner would concede that the sixth respondent has a son out of the marriage with Shanmugam, who is said to be a Software Engineer. Considering all those facts, this Court was of the view that the matter could be resolved amicably, and by order, dated 17.11.2014, the matter was directed to be placed before the Mediation and Conciliation Centre, attached to this Court to explore a possibility of settlement. Accordingly, the matter was placed before the Mediation and Conciliation Centre and the parties have appeared before the Centre. However, there was no settlement, and therefore, the matter is before this Court once again.

3. The third respondent/Transport Corporation has filed a counter affidavit, setting out entire facts, and stating that Shanmugam retired from service on 30.06.2011, and he was receiving pension and died on 24.01.2014, and now the dispute is, as to who is entitled to receive the family pension, either the petitioner or the sixth respondent. The counter further states that the marriage between the sixth respondent and Shanmugam took place on 13.07.1986, and a child was born out of their wedlock on 27.08.1987, and the marriage between the petitioner and the said Shanmugam took place in the year 1997.

Thus, the third respondent has stated that, since there was rival claim made by the petitioner and the sixth respondent claiming to be the wife of Shanmugam, this Court may be pleased to direct the parties to approach the Civil Court.

4. The learned counsel appearing for the petitioner would submit that the petitioner accepted the fact that her husband was a bigamist, her only case is that, for all these years, the whereabouts of the sixth respondent are not known, soon after the death of Shanmugam, and when the petitioner has made a claim for reception of his pensionary benefits, the sixth respondent has made the present claim, as if, she is the legally wedded wife of the deceased Shanmugam. The learned counsel furthermore submitted that even in the service records of the respondent/Transport Corporation, the name of the petitioner alone features, describing her as sole heir of Shanmugam. However, this Court is of the view that these controversial issues cannot be resolved in a Writ Petition. Necessarily, the petitioner has to approach Civil Court to establish her rights. Accordingly, while declining to grant the relief sought for herein, this Court is granting liberty to the petitioner to approach Civil Court of competent jurisdiction to vindicate her grievance. At this juncture, the learned counsel for the sixth respondent submitted that he has entered appearance for the sixth respondent only recently by change of vakalath, and would submit that though the Writ Petition is disposed of, this Court may be pleased to make an observation leaving it open to both the petitioner as well as the sixth respondent to approach the third respondent /Transport Corporation with a workable solution, and if such request is made, the third respondent/Corporation may be directed to consider the same. Heeding to the request made by the learned counsel appearing for the sixth respondent, the learned counsel appearing for the third respondent/Transport Corporation submitted that, if the petitioner and the sixth respondent workout a settlement amongst themselves, then, the third respondent/Corporation will be willing to consider the same.

5. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

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Dharapuram, Tiruppur District.
5. The Tahsildar,
Kanchipuram Taluk, Kanchipuram.

+1 cc to Mr.P.Kannankumar, Advocate, sr.58131
+1 cc to Mr.S.Dhanaselvan, Advocate, sr.58315
+1 cc to M/s.R.J.Yoga Anandhi, Advocate, sr.58423

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