

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.24165 of 2015

K.Manimegalai

... Petitioner

Vs.

The Managing Director,
The Salem District Cooperative Milk
Producers Union Limited,
Salem - 636 302

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent give the death and other monetary terminal benefits of the petitioner's husband, M.Karunanithi, who died in harness, on 31.10.2007, by considering Legal Heirship certificate, dated 24.12.2007 and the petitioner's representations, dated 14.07.2014 and 26.05.2015, without insisting for Succession Certificate.

For Petitioner : Mr. S.Prabakar

For Respondent : Mr. T.K.Ashokkumar

O R D E R

Admit. Mr. T.K.Ashok kumar, learned counsel, takes notice for the respondent. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner would state that her husband, M.Karunanithi, was working as Executive Officer, Grade I in the services of the respondent and on 31.10.2007, he died in harness, leaving behind the petitioner, daughters and son, as his legal heirs. The petitioner has approached the Tahsildar, Namakkal, for getting the Legal Heirship Certificate and after contest, it was issued to the petitioner. But, on 23.12.2011, an objection was raised by one Tmt.Saroja, disputing the Legal Heirship Certificate. Therefore, the rival claimant, namely, Tmt.Saroja, has filed a suit against the petitioner and others, including the respondent herein, as a party, before the Additional District Munsif Court, Namakkal, praying for declaration that she (Saroja) is the legally wedded wife of Late.Karunanithi and prays for other consequential reliefs. The suit, after contest, came to be dismissed, vide judgment and decree,

dated 23.12.2011 and the Appeal filed there-against in A.S.No.13 of 2012 before the Subordinate Court, Namakkal, has also met with the same fate, vide judgment and decree, dated 27.03.2014. No further challenge against the appeal has been made.

3. The petitioner has submitted a representation, dated 14.07.2014, to the respondent, enclosing the copies of the above said proceedings. The respondent, sent communications, dated 09.08.2014 and 23.09.2014, to produce the Succession Certificate. The particulars sought for by the respondent were also furnished, in the form of the representation, dated 26.05.2015 by the petitioner.

4. Thereafter, the respondent sent another communication, dated 18.06.2015, to the petitioner to produce the Succession Certificate from the Decree of the Court, declaring that the petitioner herein is entitled to get the eligible benefits of Late.M.Karunanithi, Executive Officer, Grade-I, so as to release her the terminal benefits.

5. The learned counsel for the petitioner would submit that it is not necessary on the part of the petitioner to get either the Succession Certificate or the decree of the Court to declare that she is eligible to get the terminal benefits, for the reason that Civil Proceedings initiated by the rival claimant, namely, Saroja, has ended in dismissal and therefore, there cannot be any impediment on the part of the respondent to consider her claim for disbursement of the terminal benefits and hence, prays for the appropriate orders.

6. This Court heard the submissions of Mr.T.K.Ashok Kumar, learned counsel, who accepts notice on behalf of the respondent, and who would submit that the communication has been sent to the petitioner on 18.06.2015, requesting her to furnish the Succession Certificate or the decree of the Court, for getting the terminal benefits and the petitioner did not choose to comply with the said order and therefore, prays for appropriate orders.

7. This Court has carefully considered the submissions made by the learned counsel for both sides and also perused the materials available on record.

8. The rival claimant of the petitioner, namely, Saroja, has filed O.S.No.34 of 2009, on the file of the Additional District Munsif Court, Namakkal, praying for : (a) a declaration that she is the only legally wedded wife of her husband, Late.Karunanithi; (b) a permanent injunction restraining the fifth defendant therein, namely, the respondent herein, from disbursing the monetary benefits, including pension, to defendants 1 to 4, arising out of the demise of the said Late.Karunanithi; (c) a mandatory injunction restraining the fifth defendant / the respondent herein, to disburse all the monetary benefits, including pension and other benefits to her and (d) a further direction to the sixth defendant, Tahsildar, Namakkal, to issue the Legal Heirship Certificate in her favour. The said suit, after contest, was dismissed on 23.12.2011 and the further

challenge to the Appeal made by Mrs.Saroja has also ended in dismissal and no further challenge has been made to the said judgment and decree passed by the lower appellate court.

9. It is pertinent to point out, at this juncture, that the respondent herein is one of the defendants in the suit and one of the respondents in the appeal and therefore, he is also equally bound by the said judgment and decree passed by the trial court as well as by the lower appellate court.

10. In the light of the above facts and circumstances, there is no necessity on the part of the petitioner to get either Succession Certificate or move the Civil Court to get the decree of declaration in her favour. Therefore, this Court, taking into account the above facts and circumstances, directs the respondent herein to consider the petitioner's representation, dated 26.05.2015, in the light of the judgments and decrees, dated 23.12.2011 and 27.03.2014, and pass appropriate orders, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

11. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk
To

1. The Managing Director,
The Salem District Cooperative Milk
Producers Union Limited,
Salem - 636 302

1 c cto Mr.T.K. Ashok Kumar, Advocate Sr.40749

ALA(CO)
Eu 20.08.15

W.P.No.24165 of 2015

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