

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31210 of 2015

Mrs.Rajeswari

..

Petitioner

Versus

1. The Principal Secretary
State of Tamilnadu,
School Education Department
Fort St George, Chennai 600009.
2. The Director
School Education Department
College Road, Nungambakkam,
Chennai 600 006.
3. The District Educational Officer
Krishnagiri District, Krishnagiri.
4. The Headmaster
Government High School,
Oppathavadi 635 104, Krishnagiri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the impugned records of the 4th respondent dated 07.08.2015 made in Ref.No.Nil and quash the same and consequently direct the respondents 2 to 4 to disburse the service terminal benefits payable due to the petitioner's deceased brother, viz., P.Manimuthu based on the judgment made on OS.No.13/2012 dated 03.06.2013 on the file of the District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District to the petitioner herein forthwith.

For Petitioner : Mr.M.R.Jothimanian

For R1 to R4 : Mr.V.Subbiah, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims to be the sister of one P.Manimuthu, who was employed as Lab Assistant in the services of the 4th respondent and according to her, he died in harness on 03.03.2011. The petitioner would further state that her father as well as her mother died on 11.07.1998 and 17.03.2003 respectively and she is the only surviving legal heir of her brother, namely, [late] P.Manimuthu. The petitioner, in this regard, filed a suit in OS.No.13/2012 on the file of the Court of District Munsif cum Judicial Magistrate, Pochampalli, to declare that she is the sole legal heir of [late] P.Manimuthu and restraining the defendants, viz., the Tahsildar, Pochampalli, and the Collector of Krishnagiri District, from issuing any legal heirship certificate in favour of the 3rd parties and the suit, after contest, came to be decreed on 03.06.2013. The petitioner has also obtained a certificate from the office of the Tahsildar, Pochampalli, dated 11.02.2014, stating that she is the younger sister of the deceased Manimuthu. The petitioner, in this regard, has submitted a representation praying for settlement of terminal benefits due and payable to her and since no orders have been passed on the said representation, she has filed WP.No.12518/2015 on the file of this Court and this Court, has passed final order dated 27.04.2015 by permitting the petitioner to approach the competent civil court and get appropriate orders and thereafter, approach the authorities with a request to pay the terminal benefits payable, on account of the demise of her brother Manimuthu. The petitioner's representation was disposed of by the respondents by directing that she has to approach the Civil court and get appropriate orders. Challenging the legality of the said order dated 07.08.2015 passed by the 4th respondent, the petitioner is before this Court by filing this writ petition.

3. Learned counsel for the petitioner would submit that once the civil court has declared that the petitioner is the sole surviving legal heir of [late] P.Manimuthu, in terms of the judgment and decree dated 03.06.2013 made in OS.No.13/2012, there may not be any impediment on the part of the respondents to settle the terminal benefits and prays for appropriate orders.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents, would submit that the petitioner has to get a civil court decree, directing the respondents to pay the terminal benefits to her and since she has failed to get a suit decree from the competent civil forum, her request has been rightly rejected by the 4th respondent.

5. This Court heard the rival submissions made on either side and also perused the materials placed before it.

6. It is the categorical submission of the learned counsel for the petitioner that the judgment and decree dated 03.06.2013 made in OS.No.13/2012 passed by the Court of District Munsif cum Judicial Magistrate, Pochampalli, has become final and the civil court has also declared the petitioner alone is the sole surviving legal heir of [late] P.Manimuthu and in the light of the said decree, there may not be any impediment on the part of the respondents to settle her terminal benefits.

7. This Court, in the light of the above facts and circumstances and on perusal of the materials placed before it, is of the view that the impugned order has to be set aside and the matter is to be remanded, granting liberty to the petitioner to submit a fresh representation to the respondents 3 and 4 with a further direction, directing them to pass appropriate orders within a stipulated time.

8. In the result, the writ petition is partly allowed and the impugned order dated 07.08.2015 made in Ref.No.Nil by the 4th respondent is set aside and the petitioner is permitted to submit one more representation to the respondents 3 and 4, by enclosing a copy of this order as well as the judgment and decree dated 03.06.2013 made in OS.No.13/2012 within a period of two weeks from the date of receipt of a copy of this order and the respondents 3 and 4, on receipt of the same, are directed to consider the said representation on merits and in accordance with law, after taking note not of the above civil court decree and pass orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner. No costs.

AP

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary
State of Tamilnadu,
School Education Department
Fort St George, Chennai 600009.

2. The Director
School Education Department
College Road, Nungambakkam,
Chennai, 600 006.

3. The District Educational Officer
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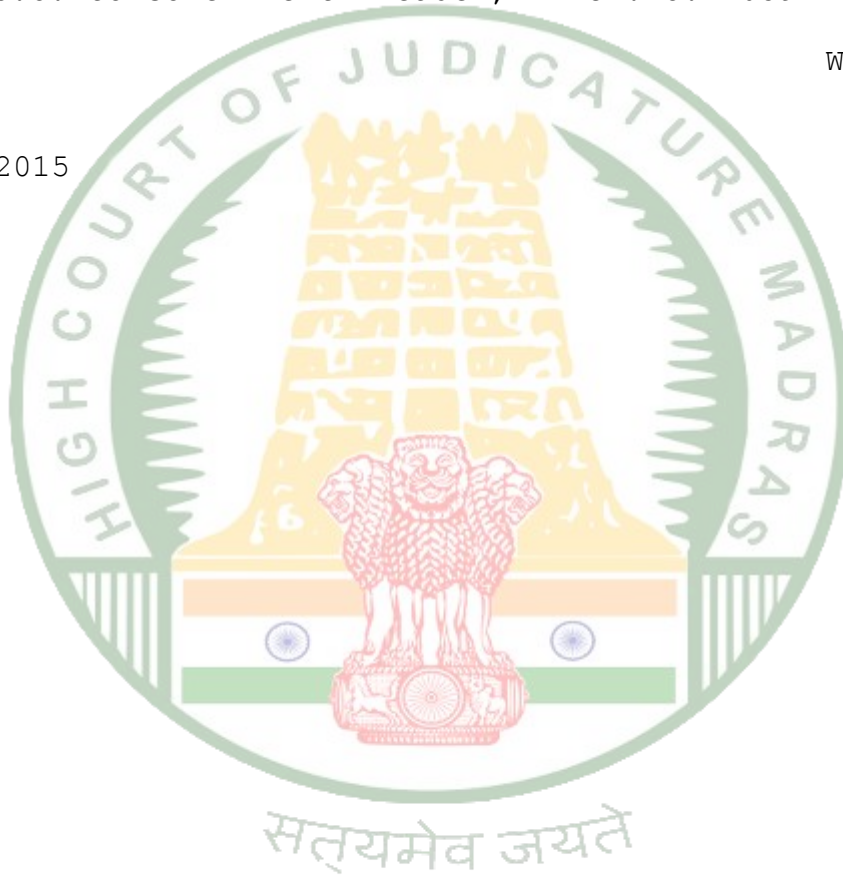
4. The Headmaster
Government High School,
Oppathavadi 635 104,
Krishnagiri District.

+1 C.C. to MR.M.R.JOTHIMANIAN, Advocate in Sr.53934

+1 C.C. to Government Pleader, in Sr.No.44039

W.P.No.31210/2015

GR(CO)
sd : 08/10/2015



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