

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 23058 of 2009

ORDER:

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Heard learned counsel for the petitioner, Government Pleader for Revenue and learned counsel for the implead petitioners.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the endorsement made by the second respondent vide Rc.ASO 274/2007 dated 01.08.2009, as illegal, arbitrary and unjust; and consequently direct the respondents to furnish the Family Members Certificate, Income Certificate and unemployment certificate to the petitioner.

The averments in the affidavit filed in support of the writ petition are as under:

The petitioner herein claiming to be the wife of one Venkateswarlu, made an application before the second respondent seeking issuance of Family Members Certificate, Income Certificate and unemployment certificate. According to her, the said Venkateswarlu while working as Servant in Social Welfare Hostel and died on 22.07.2007 due to heart attack leaving behind the petitioner and two sons as his legal heirs. After his death the petitioner is said to have made an application before the Social Welfare Authorities claiming death benefits of her husband and also for compassionate appointment to her son. But the authorities advised her to furnish the family members certificate, income certificate and unemployment certificate. Accordingly, the petitioner made an application before the second respondent for issuance of Family Members Certificate, Income Certificate and Unemployment Certificate but the same was rejected by the second respondent, which led to filing of this writ petition.

Learned counsel for the petitioner mainly submits that though the petitioner is legal heir of Venkateswarlu, the authorities in collusion with the mother and sister of the deceased refused to grant the said certificates.

A perusal of the endorsement, dated 01.08.2009, would show that the mother and un-married sister of late Venkateswarlu, sent a lawyer notice claiming themselves to be legal heirs of the deceased and that they are entitled for the death benefits of the deceased Venkateswarlu. During the course of enquiry, the officer found that the deceased Venkateswarlu earlier married one Kousalya and has not obtained any divorce from her. Hence, he rejected the request of the petitioner and informed the petitioner to approach the civil Court to resolve the dispute.

A counter filed by the Tahsildar would show that earlier in the year 1979 the deceased Venkateswarlu married one Knadula Kowsalya, D/o. Narsaiah and both of them lived happily for a period of five years. Thereafter disputes arise between them which led to their separation. It is stated that till date no judicial order is passed separating them. It is stated in the counter that after deserting Kousalya, the deceased started living with the petitioner herein.

Since the issue involves disputes questions of fact, the same cannot be decided under Article 226 of the Constitution of India. The proper remedy for the petitioner would be to approach the civil Court. Hence, the writ petition is dismissed, leaving it open to the petitioner to avail the remedies available under law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

14.09.2015
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