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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD)No.10748 of 2016 and

W.M.P.(MD) Nos.8326 & 8327 of 2016

P.Panchali

... Petitioner

-vs-

1. The Chief Engineer,
Madurai Region,
Tamil Nadu Generation and Distribution Corporation Ltd.,
K.Pudur, Madurai-7.
2. The Superintending Engineer,
Madurai EDC,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Race Course Salai, K.Pudur, Madurai-7.
3. The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Madurai East Division, Thiruppalai,
Natham Road, Madurai-14.
4. The Assistant Executive Engineer (O&M),
Melure / South Madurai EDC,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO)
Melur, Madurai.
5. The Assistant Engineer (O&M),
Narasingampatti,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Melur, Madurai.

6. P.Vimala

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Ka.No: Se.Po/KiKo/UNiA/NiPi/Nir.U.1/A.No.745/2016 dated 05.05.2016 passed by the 3rd respondent, quash the same and consequently direct the respondents to disburse 50% of terminal benefits of the deceased P.Sivalingam to the petitioner.



For Petitioner : Mr.M.Venkatesan
For R1 to R5 : Mr.S.Dhayalan
Standing Counsel for EB
For R6 : No Appearance

O R D E R

Whether nominee is a legatee or a trustee in respect of terminal benefits of the deceased is the issue raised in this case. The contention of the department is that nominee is the owner of the property and therefore, nominee alone is entitled to get the benefit. But the contention of the petitioner is that nominee is not the owner of the asset and unless the statute expressly provides that the provisions of law will override Succession Laws, it is the legal heirs, who would be entitled to terminal benefits and not the nominee alone. Whose contention is right? is the issue to be decided.

2. The 3rd respondent herein has passed the order dated 05.05.2016 by proceedings in Ka.No: Se.Po/KiKo/UNiA/NiPi/Nir.U.1/A.No.745/2016, informing the petitioner's counsel that as per the Rules of Tamil Nadu Electricity Board, the amount would be disbursed only to the person named as "Nominee" by the deceased in the Service Register, thereby declining the request of the petitioner to disburse 50% of the terminal benefits to her in the capacity as mother of the deceased. This order is under challenge in this writ petition.

3. Learned counsel for the petitioner has pointed out that the deceased employee by name P.Sivalingam died on 04.03.2016; he joined in the respondent department as a Daily Wage during 2008 and his service was regularized in the post of Field Assistant during 2009; after the death, the petitioner is entitled to 50% of the terminal benefits.

3.1. The petitioner, in order to support her claim, has produced the legal heir certificate dated 29.03.2016, in which the petitioner (mother of the deceased) and the 6th respondent (wife of the deceased) alone are shown as legal heirs.

3.2. Learned counsel for the petitioner would contend that nominee is only a trustee, who can receive / act on behalf of all the legal heirs of the deceased and no ownership right is vested with the nominee.



respondent are equally entitled to the terminal benefits of the deceased. It is further pointed out that even if R6 (wife) receives the amount, she can receive it only as a trustee for and on behalf of the mother also.

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4. The Hon'ble Supreme Court in the case of **Shipra Sengupta Vs. Mridul Sengupta and Ors, (Civil Appeal No. 809 of 2002)** decided on 20.08.2009 referred to and discussed the following judgments, which would be of interest to the fighting litigants, quoting nomination:

"14. In Sarbati Devi (supra), this Court has laid down that a mere nomination does not have the effect of conferring to the nominee any beneficial interest in the amount payable under the life insurance policy, on death of the insurer. **The nomination only indicates the hand which is authorized to receive the amount on payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession.**

15. The appellant also placed reliance on the judgment of this Court in **Vishin N. Khanchandani and Anr. v. Vidya Lachmandas Khanchandani and Anr. MANU/SC/0509/2000 : (2000) 6 SCC 724**, wherein this Court held that the law laid down in Sarbati Devi (supra) holds the field and is equally **applicable to the nominee becoming entitled to the payment of the amount on account of National Savings Certificates** received by him under Section 6 read with Section 7 of the Act who in turn is liable to return the amount to those in whose favour the law creates a beneficial interest, subject to the provisions of Sub-section (2) of Section 8 of the Act.

16. Learned Counsel for the appellant also placed reliance on a Division Bench judgment of the Delhi High Court in **Ashok Chand Aggarwala v. Delhi Administration and Ors. (1998) VII AD (Delhi) 639**. This case related to the Delhi Co-operative Societies Act. The High Court while following Sarbati Devi case (supra) held that **it is well settled that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned.** The nomination indicates the hand which is authorized to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the



deceased, in accordance with the law of succession, governing them."

5. After elaborately discussing those judgments, the Supreme Court has concluded as under:

"17. The controversy involved in the instant case is no longer res integra. **The nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession.**

18. In terms of the factual foundation laid in this case, the deceased died on 8.11.1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, **on the day when the right of succession opened, the appellant, his widow became entitled to one half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same.**

19. In view of the clear legal position, it is made abundantly clear that the amount in any head can be received by the nominee, but the amount can be claimed by the heirs of the deceased in accordance with law of succession governing them. In other words, **nomination does not confer any beneficial interest on the nominee.** In the instant case amounts so received are to be distributed according to the Hindu Succession Act, 1956. The State Bank of India is directed to release half of the amount of general provident fund to the appellant now within two months from today along with interest."

6. This decision of the Hon'ble Supreme Court is applicable to the facts of this case and unhesitatingly, this Court holds that the petitioner as mother is entitled to receive 50% of the terminal benefits of the deceased even though the 6th respondent / wife is the nominee.

7. As there is no cordiality prevailing between the petitioner and the 6th respondent, permitting the 6th respondent to receive the same and directing the 6th respondent to disburse 50% to the petitioner could only lead to multiplicity of the proceedings, involving expenditure in terms of time, money and energy. Therefore, the petitioner is permitted to receive 50% of the terminal benefits.

8. In the result, this Writ Petition is allowed and the impugned order of the 3rd respondent dated 05.05.2016 passed in Ka.No: Se.Po/KiKo/UNiA/NiPi/Nir.U.1/A.No.745/2016 is set aside.



Either the 3rd or the 2nd respondent, whomsoever is competent is directed to disburse the terminal benefits of the deceased employee in equal proportion to the petitioner as well as to the 6th respondent within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(RTI)

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Sub Assistant Registrar

To:

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Melur, Madurai.

+1cc to M/S.M.Venkatesan, Advocate in SR.No.51279

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W.M.P. (MD) Nos.8326 & 8327 of 2016
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