

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.9854 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed to declare the action of the respondents 1 to 4 in not considering the legitimate request of the petitioner regarding the amount due to her towards maintenance and not considering her representation, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that the marriage of the petitioner and the 5th respondent was performed on 25.03.1983 and later, the 5th respondent filed a petition for dissolution of marriage and the same was allowed by the Sub-ordinate Judge, Sompeta, by granting a decree of divorce, as prayed by the 5th respondent and subsequently, the same was set aside by this Court and when an S.L.P.No.6948 of 2000 was preferred by the 5th respondent, the Hon'ble Supreme Court dismissed the same and later, when the petitioner filed M.C.O.P.No.9 of 2008 for monthly maintenance, the Judicial Magistrate of First Class, Tekkali, granted monthly maintenance of Rs.4,000/- to the petitioner from 05.03.2008. The main grievance of the petitioner is that as the petitioner is the legally wedded wife of the 5th respondent, the petitioner is requesting the respondents 1 to 4 to stop the payment of all retirement benefits that are payable to the 5th respondent since the 5th respondent is retiring from service on 31.03.2016 and if the same is released to the 5th respondent, then the petitioner may not be in a position to seek maintenance and monetary benefits from the 5th respondent.

Admittedly, the 5th respondent has not denied the relationship with the petitioner, who is the legally wedded wife of the 5th respondent and that the relationship of the 5th respondent with the petitioner

continued to be husband and wife. As far as the claim of the petitioner that the retirement benefits should not be given to the 5th respondent is concerned, no such orders can be passed by this Court.

Considering the facts and circumstances of the case and the grievance of the petitioner, the writ petition is disposed of as follows:

Since the petitioner has already sent a notice, dated 21.12.2015, to respondents 1 to 4 informing that the petitioner is claiming financial benefits from the retirement benefits of the 5th respondent, the respondents 1 to 4 are directed to pass appropriate orders on the same. The petitioner is at liberty to approach the appropriate forum, if she needs any financial assistance from the 5th respondent.

Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 28th October, 2016

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RAJA ELANGO,J

