

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Tenth day of February Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE S.NAGAMUTHU

and

THE HON`BLE MR JUSTICE N.AUTHINATHAN

CMP No.1278 of 2017

in WA.No.1590 of 2005

PAPPA @ CHINA PAPPA

[PETITIONER]

Vs

1 A.G.PONN.MANICKAVEL
SUPERINTENDENT OF POLICE,
DISTRICT POLICE OFFICE, COIMBATORE.

[RESPONDENTS]

2 CHETTIAMMAL
W/O. LATE KARNAN, NAINAKAUNDANUR VILLAGE,
KOVILUR POST, THOLASAMPATTI VIA, METTUR TK,
SALEM DIST.

3 THE STATE OF TAMIL NADU
REP BY ITS CHIEF SECRETARY, FORT.ST.GEORGE,
CHENNAI-9.

4 THE HOME SECRETARY
FORT.ST.GEORGE, CHENNAI-9.

5 THE COLLECTOR
SALEM DIST, SALEM.

6 THE REVENUE DIVISIONAL OFFICE
METTUR, SALEM DIST.

7 THE DIRECTOR GENERAL OF POLICE
MYLAPORE , CHENNAI-4.

8 THE DIRECTOR
CENTRAL BUREAU OF INVESTIGATION, NEW DELHI.

9 THE SUPERINTENDENT OF POLICE
SALEM.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead the petitioner herein as the Ninth Respondent in the above Writ Appeal (in CMP.No.1278/2017)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. GIRIDHAR, Advocate for the petitioner and of M/S.VIJAYNARAYANAN, for M/S.R.PARTHIBAN Advocate for the 1st respondent and of M/S.ARULSELVAM ASSOCIATES, for the 2nd respondent and of M/S.A.N.THAMBIDURAI, Special Government Pleader on behalf of the 3 to 7 & 9 respondents the court made the following order:-

[Common Judgment of the Court was delivered by S.NAGAMUTHU, J.]

The petitioner is the mother of one Mr.Karnan. Mr.Karnan died on 25.02.2004 in a police shoot out. One Mrs.Chettiammal is the wife of Mr.Karnan. According to Mrs.Chettiammal, while in the custody of Police, he was killed by the Police. Whereas, according to the Police, Mr.Karnan, while in custody, snatched a revolver from the waist of Sub-Inspector, shot at and caused injuries to him and also the Inspector of Police.

2. In respect of the above occurrence, an enquiry was held by RDO / Executive Magistrate as required under Section 176 CrI.P.C. wherein the RDO found that the police version was true and a report was submitted by the Government, which was accepted by the Government. While so, Mrs.Chettiammal, filed W.P.No25678 of 2004 before the Writ Court seeking for transfer of investigation to C.B.I. and disciplinary action against the police officials concerned and also for payment of compensation. The learned single Judge of this Court, by order, dated 09.08.2005, ordered investigation by C.B.I. However, the learned single Judge did not order for payment of compensation thereby giving liberty to the petitioner / Mrs.Chettiammal to revive her request for compensation before the respondents 1 and 2, subject to the result of the investigation. The learned single Judge also directed the respondents 1 to 5 to initiate appropriate disciplinary action against the officer/officers, who is/are connected with the above incident, however, subject to the result of the investigation. Aggrieved by the said order, the Superintendent of Police, Coimbatore is before us with the present Writ Appeal.

3. While so, the petitioner, who is the mother of the deceased Mr.Karnan, has come up with this petition in C.M.P.No.1278 of 2017 to implead herself as a respondent in the said Appeal.

4. We have heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the materials on record carefully.

5. The question is whether at this stage the petitioner should be impleaded as a respondent. In other words, the petitioner is a necessary party to the proceedings. It is needless to point out that the Writ Petition was filed in the year 2004. The Writ Appeal was filed in the year 2005 and the same is pending before this Court for 12 years. It is not the case of the petitioner petitioner that she was not aware of the proceedings before this Court. Even according to her affidavit, she was living with Mrs.Chettiammal, the wife of the deceased Mr.Karnan all along.

6. Be that as it may, she did not approach the Writ Court to implead herself as a party or at least in the Writ Appeal filed in the year 2005. At this stage, we cannot allow this petition and the remedy for the petitioner lies elsewhere. So far as the Writ Appeal is concerned, the petitioner is not at all a necessary party and the same may be decided even in the absence of the petitioner because the matter is prosecuted by her daughter in law, namely, Mrs.Chettiammal. In such view of the matter, we conclude that the petition has been filed only to further drag on the proceedings. For the reasons, the petition is dismissed.

-sd/-
10/02/2017

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU, FORT.ST.GEORGE,
CHENNAI-9.

2 .
THE HOME SECRETARY FORT.ST.GEORGE, CHENNAI-
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SALEM.

C.C. to M/S.GIRIDHAR Advocate on payment of necessary charges

C.C. to M/S.R.PARTHIBAN Advocate on payment of necessary charges

C.C. to M/S.ARULSELVAM ASSOCIATES, on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
CMP.1278/2017

in
WA.1590/2005

Date :10/02/2017

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