



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.977 of 2013

A.Nihmathullah

... Appellant

-vs-

1.The District Collector
Collectorate
Dindigul District

2.The Sub Collector
O/o. Sub Collector
Nilakottai Taluk
Dindigul District

3.The Revenue Divisional Officer
O/o. Revenue Divisional Officer
Nilakottai Taluk
Dindigul District

4.The Tahsildar
Nilakottai Taluk
Dindigul District

Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 01.08.2013 in W.P.(MD).No.11741 of 2013, on the file of this Court.

Prayer in WP(MD). 11741/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus filed to call for the records pertaining to the impugned order in Na.Ka.No.1822/2013/A4 dated 18.6.2013 on the file of the Respondent No.3 and quash the same as illegal and consequently directing the respondent No.3, to conduct the enquiry and issue a certificate of destitute widow to the petitioner within the time stipulated by this Honble Court.



For Appellant : Mr.T.Lajapathi Roy
For Respondent : Mr.V.R.Shanmuganathan
Special Government Pleader

WEB COPY

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

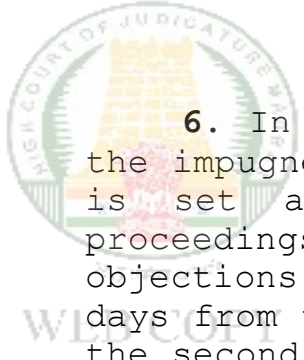
Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader, who accepts notice on behalf of the respondents.

2. The appellant is the writ petitioner, who challenged the memorandum, dated 18.06.2013, issued by the Revenue Divisional Officer, Nilakottai Taluk, Dindigul District, in which the appellant's request for grant of destitute widow certificate was rejected. The Writ Court accepted the reasoning assigned in the impugned communication and dismissed the writ petition.

3. The learned counsel for the appellant would contend that it is true that there was an immovable property standing in the name of the appellant's husband, but he alone is not the full owner of the property and the parties are being Muslims, the appellant would be entitled to roughly 1/8th share in the property. Further it is submitted that except the rental income of first floor premises of Rs.700/-, there is no other source of income and the same is barely enough for the appellant to maintain herself and three school going children. Further, it is submitted that the impugned communication has been passed purely on presumptions and assumptions without affording any opportunity to the appellant to rebut the same. The averment that the appellant is earning of Rs.200/- per day working as Tailor is also absolutely false.

4. On a reading of the impugned order passed by the Writ Court, we found that the Writ Court accepted the reasons assigned in the impugned communication dated 18.06.2013. However, according to the appellant, she did not have an opportunity to rebut such a finding which is according to her is based on surmises and conjectures. It appears that the reasons for applying for such a Certificate was to enable her to secure employment under the said category reserved for destitute widow. However, it appears that as of now, the appellant might have crossed the maximum age limit.

5. Be that as it may, we are opined that the appellant should have an opportunity to putforth her stand and establish before the Authority that she is in great financial distress and the income which is said to be received by the appellant as per the impugned order, dated 18.06.2013, is incorrect.



6. In the light of the above, the writ appeal is allowed and the impugned order, dated 01.08.2013 in W.P.(MD).No.11741 of 2013, is set aside and the appellant is directed to treat the proceedings, dated 18.06.2013, as a show-cause notice, submit her objections duly supported by records, within a period of fifteen days from the date of receipt of a copy of this order, after which the second respondent shall conduct an enquiry and pass a reasoned order on merits and in accordance with law. No costs.

Sd/-

Assistant Registrar(crl side)

/ True Copy \

Sub Assistant Registrar

To:

- 1.The District Collector,
Collectorate, Dindigul District.
- 2.The Sub Collector,
O/o. Sub Collector,Nilakottai Taluk,Dindigul District.
- 3.The Revenue Divisional Officer,
O/o/ Revenue Divisional Officer,
Nilakottai Taluk,Dindigul District.
- 4.The Tahsildar,
Nilakottai Taluk,Dindigul District.

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.59242

ia / krk

MAS/MR/SAR2:13.06.2017:3P-6C

W.A. (MD) No.977 of 2013
06.06.2017