

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.33392 OF 2016

O R D E R

Aggrieved by the proceedings of the 4<sup>th</sup> respondent in Ref.B/134/2016 dated 28.07.2016 in not granting 'Family Member Certificate' to the petitioner, who is the wife of the deceased, and requiring her to approach the civil court, the present writ petition has been filed.

The case of the petitioner as per the writ affidavit is that the husband of the petitioner by name K.Rama Krishna was working as Secondary Grade Teacher even before their marriage and he entered the name of his mother as nominee in the service records. The marriage of the petitioner was performed with the said K.Rama Krishna on 23.10.1994 and they were blessed with a female child on 30.07.1995. After the marriage, the husband of the petitioner did not change the nominee in the service records. Due to alleged harassment meted out by the petitioner at the hands of her husband, she was forced to leave her husband and live at her parents house since 2000. The husband of the petitioner filed O.P.No.16/2001 on the file of Senior Civil Judge's Court, Rayachoty for dissolution of marriage. The wife filed O.P.No.16/2002 on the file of said court, for restitution of conjugal rights. By common judgment and decree of the lower court dated 8.7.2004, O.P. filed by the husband was dismissed and the O.P. filed by the wife was allowed. The husband preferred appeals in C.M.A.Nos.3582 and 3999 of 2004 and by common order dated 12.11.2014, a Division Bench of this court dismissed both the appeals. Subsequently the husband of the petitioner died on 23.5.2016 due to heart attack. After demise of her husband, petitioner

filed application before the 4<sup>th</sup> respondent – Tahsildar for issuance of 'Family Member Certificate'. The brother of the late husband of the petitioner also approached the 4<sup>th</sup> respondent and filed objections. By the impugned proceedings dated 28.7.2016, the 4<sup>th</sup> respondent while not issuing the family members certificate as sought for by the petitioner, informed to approach the civil court. Hence the writ petition.

The learned counsel for the petitioner while reiterating the above facts submitted that the petitioner has already approached the civil court and the decree obtained by her for restitution of conjugal rights had attained finality. After the death of her husband, she filed the application for issuance of the family member certificate and the 4<sup>th</sup> respondent without considering the order passed by this court in appeals filed by the husband of the petitioner and without any application of mind, informed the petitioner to approach the civil court and failed to issue the certificate. Therefore, he sought to set aside the impugned proceedings and direct the 4<sup>th</sup> respondent to issue family members certificate.

The learned Assistant Government Pleader for Revenue submitted that as there are family disputes and the brother of the deceased husband of the petitioner, objected for issuance of family member certificate, the petitioner has to approach the civil court for resolution of such dispute and the 4<sup>th</sup> respondent has rightly passed the impugned proceedings.

G.O.Ms.No.145 Revenue (SER.II) Department dated 25.4.2015 issued by the Government of Andhra Pradesh contemplates the procedure to be followed by Tahsildar for issuance of the family member certificate. A

perusal of the impugned order goes to show that without mentioning the nature of objection, the 4<sup>th</sup> respondent simply rejected the application of the petitioner and required her to approach the civil court. As per the facts noted above, the O.P.No.16/2001 filed by husband for dissolution of marriage was dismissed and the O.P.No.16/2002 filed by wife for restitution of conjugal rights was decreed by common order dated 8.7.2004 and the appeals filed by husband in C.M.A.Nos.3582 and 3999 of 2004 were dismissed by this court by order dated 12.11.2014. There is no material on record to show that the husband carried the matter to apex court and subsequently he expired on 23.5.2016. As already noted above, the 4<sup>th</sup> respondent while requiring the petitioner to approach the civil court, has not mentioned the nature of dispute. Further, at one stage in the impugned proceedings, he noted that the husband of the petitioner filed O.P.No.16/2001 and the court decreed the said O.P. for dissolution of their marriage. This is factually incorrect. In fact, the said O.P. was dismissed. Therefore, in my considered view, the 4<sup>th</sup> respondent has not considered the application of the petitioner for issuance of the family member certificate based on material on record and as also per the procedure prescribed under G.O.Ms.No.145 dated 25.4.2015. In view of these circumstances, the impugned proceedings cannot be sustained.

For the foregoing reasons, the impugned proceedings of the 4<sup>th</sup> respondent in Ref.B/134/2016 dated 28.07.2016 is set aside. The 4<sup>th</sup> respondent – Tahsildar is directed to once again consider the application of the petitioner for issuance of 'family member certificate' in terms of G.O.Ms.No.145 dated 25.4.2015 and pass orders afresh in accordance with law.

The writ petition is accordingly allowed to the extent indicated above.

No costs.

Miscellaneous petitions pending if any, shall stand closed.

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A.RAJASHEKER REDDY,J

DATE:06—03—2017

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