

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2019 of 2016

ORDER:

1) The present writ petition came to be filed with the following relief:

“issuance of writ of mandamus declaring the action of respondent Nos.2 and 3 in trying to disburse the death benefits of the deceased late P.Tyagaraju, in favour of respondent No.4 alone without considering the petitioner's claim in the death benefits being the first wife of the deceased as illegal, arbitrary and violation of Articles 14 and 21 of the Constitution of India; and consequently direct the respondents to consider the claim of the petitioner for release of the death benefits.”

2) The averments in the affidavit filed in support of the writ petition are to the effect that the petitioner married P.Thyaga Raju on 12.09.1977 and out of wedlock she claims to have given birth to a male child by name P.Venkateswarlu, who is now aged about 32 years and a female child by name P.Venkata Lakshmi, who is now aged about 27 years. It is said that during the subsistence of the marriage, the deceased herein fell in love with respondent No.4 and because of the family disputes, he left the petitioner. The averments in the affidavit further discloses that the illicit intimacy with respondent No.4 lead to birth of two sons namely P.Satya Raju and P.Rajasekhar. After the death of the deceased, the petitioner is said to have approached respondent

Nos.2 and 3, where the husband of the petitioner was working. As there was no proper response, she gave representation dated 12.01.2016 requesting the authorities to release the death benefits, pension and also other terminal benefits in favour of the petitioner. Their inaction led to filing of the present writ petition.

3) By an order dated 27.01.2016, this Court while admitting the writ petition directed the respondents not to release any death benefits of late P.Tyagarju in favour of respondent No.4.

4) A counter and vacate stay petition came to be filed by respondent No.4 disputing the averments made in the affidavit filed in support of the writ petition. Documents came to be placed along with the counter stating that respondent No.4 herein is the wife of the deceased and that the petitioner has nothing to do with their family. According to the counter, the deceased married respondent No.4 on 22.09.1988 at Kurnool as per Hindu rites and customs and two children were born to her through the deceased in the year 1994 and 1996. The averments in the counter further show that respondent No.4 denied the relationship of the petitioner with the deceased and also the birth of two children.

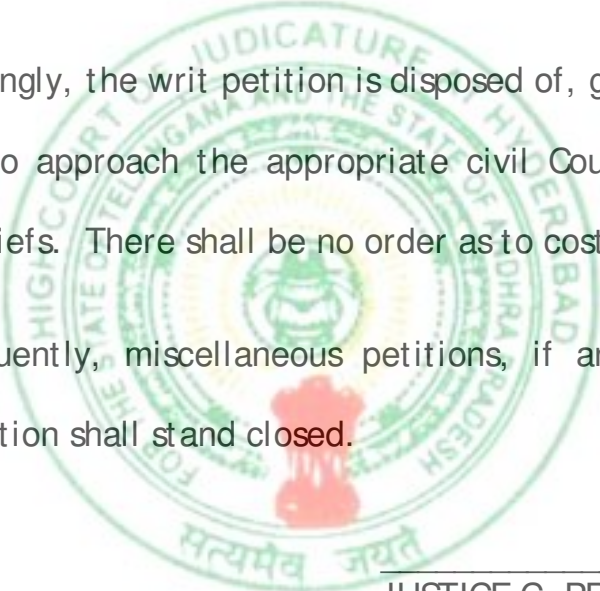
5) Respondent Nos.1 to 3 filed counter stating that as per office records and the nomination particulars furnished by the deceased in form No.3, respondent No.4 is shown as the wife of the deceased.

6) As seen from the record, there exists a dispute with regard to the wife of the deceased. The petitioner claims to be the wife of the deceased, where as respondent No.4 denied the said fact. Since the dispute involves questions of fact, the same cannot be decided in a writ petition under Article 226 of the Constitution of India.

7) At this stage, learned counsel for the petitioner submits that an opportunity may be given to the parties to approach the appropriate civil Court seeking succession.

8) Accordingly, the writ petition is disposed of, giving liberty to the parties to approach the appropriate civil Court seeking the necessary reliefs. There shall be no order as to costs.

9) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE C. PRAVEEN KUMAR

22.06.2017
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