



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2018

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WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.20513 of 2018

Nallaponnu

.. Petitioner

Vs.

1. The Director,
Local Fund Audit Department,
Combined Judicial Compound Building,
Fourth Floor, Nanthanam,
Chennai - 600 035.

2. The Executive Officer,
Natham Town Panchayat,
Town Panchayat Office,
Natham, Dindigul District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents to consider my representation dated 12.1.2018 in compliance of the proceedings of the first respondent in Mu.Mu.No.11999/Pa.O.V(4)/2017, dated 23.11.2017 and to sanction the Petitioner's family pension within the time limit prescribed by this Court.

For Petitioner : Mr.D.Selvaraj

For Respondent-1 : Mr.R.Sethuraman
Special Government Pleader

For Respondent-2 : Mr.P.Kannithevan,
Addl.Govt.Pleader

O R D E R

This Writ Petition has been filed, for issuance of a writ of Mandamus, directing the respondents to consider my representation dated 12.1.2018 in compliance of the proceedings of the first respondent in Mu.Mu.No.11999/Pa.O.V(4)/2017, dated 23.11.2017 and to sanction the Petitioner's family pension within the time limit prescribed by this Court.

2.Mr.R.Sethuraman, learned Special Government Pleader takes notice for the first respondent and Mr.P.Kannithevan, learned Additional Government Pleader takes notice for the second



respondent. By consent of both parties, the main Writ Petition is taken up for final disposal at the stage of admission itself.

3. The fact that the Petitioner married one divorce Ammavasai and that earlier, the said Ammavasai married one Pitchaiammal and the said marriage was dissolved by customary practice alone is not in dispute and that the respondents insisted that the Petitioner has to produce the Succession Certificate. After divorce, the above Pitchaiammal married one Iyyavu and she also died. It is no doubt true that when there is a dispute and counter claim, Succession Certificate has got to be produced. But the certificate produced by the Petitioner would clearly show that the first wife Pitchaiammal remarried one Iyyavu. The Petitioner's husband also died on 10.7.2010. When the facts are in dispute and that if there is a claim and counter claim, in view of the judgement of this Court in **P. Umalakshmi and others .vs. State Bank of India, Mumbai** which has been confirmed by the Honourable Division Bench of this Court, the remedy will lie before the appropriate Civil Court and that the marriage has got to be established.

4. In this case, the Petitioner's husband having divorced his first wife, married the Petitioner and the first Wife Pitchaiammal remarried one Iyyavu. The respondents could deny the benefit of pension, if Death Certificate of Pitchaiammal is a fake one. It is not the case of the respondents. The Petitioner has also submitted a representation, dated 12.1.2018 to the respondents in this regard. Since the said representation has not been considered till date, the Petitioner has come forward with the present Writ Petition for the relief stated supra.

5. In view of the aforesaid facts, the case of the Petitioner for getting family pension may be considered, by looking into the representation of the Petitioner, dated 12.01.2018 and the respondent concerned is directed to pass appropriate orders in the light of the decision cited supra, within a period of eight weeks from the date of receipt of a copy of this order, if there is no legal impediment to do so.

6. With the above directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)



To:

1. The Director,
Local Fund Audit Department,
Combined Judicial Compound Building,
Fourth Floor, Nanthanam,
Chennai - 600 035.

2. The Executive Officer,
Natham Town Panchayat,
Town Panchayat Office,
Natham, Dindigul District.

+1cc to Spl.Government Pleader Sr.No.87571

+1cc to Mr.D.Selvaraj, Advocate Sr.No.87080

VSN

VB/SV/SAR4/23.11.2018/3P/5C

W.P.(MD) No.20513 of 2018
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