



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.11.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P(MD).No.720 of 2015 and
M.P. (MD).No.1 of 2015

T.Thamilarasi

... Petitioner

-vs-

1. The Senior Superintendent of Post,
Office of the Senior Superintendent of Post,
Kanniyakumari Division,
Kanniyakumari District.
2. The Assistant Superintendent of Post,
Thukkalay Sub Division,
Thukkalay, Kanniyakumari District.

3. Smt.N.Thangam

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to pay 50% from the pension and all other future benefit towards the untimely death of the petitioner's husband by considering the representation dated 27.12.2014 in accordance with law within the time stipulated by this Honourable Court.

For Petitioner	:Mr.R.Alagumani
For Respondent	:Mr.S.Jeyasingh
	for RR-1 & 2
	Mr.T.Thiagarajan for R-3

ORDER

The writ petitioner herein claiming herself as second wife of the deceased Murugan, Former Employee of Postal Department, has filed this writ petition seeking mandamus directing the respondents to pay 50% of the pensionary benefits to her.

2.The claim of the revision petitioner is that she married Murugan, after the third respondent Thangam married him and divorced. It is also contended by the writ petitioner that the son born to Murugan and third respondent got married and living separately and the daughter born to Murugan and third respondent died. The marital relationship between Murugan and third respondent was dissolved by way of a registered divorce deed on 12.05.1986. Thereafter, the said Murugan married her at Nagercoil Sub-Registrar Office. In support of her claim, she has produced the Legal Heir



Certificate issued by the Tahsildhar, Agastheeswaram saying that third respondent as first wife, Jeyan, son born through the first wife and Sumitra, daughter born through the first wife along with the petitioner herein as second wife. Sofar as third respondent is concerned, the writ petitioner is a stranger and nothing to do with her husband late Murugan. She has approached the competent Court and filed Succession O.P in respect of the late Murugan.

3.The respondents 1 & 2 filed a counter affidavit and submitted that they made an enquiry in regard to the rival claim and ascertained that the petitioner as a second wife is not entitled to get pensionary benefits.

4.The learned counsel appearing for the writ petitioner submitted that he has enough material documents to show that Murugan married the writ petitioner and the marriage was also registered.

5.Considering the above submissions, I am of the view that this Court, under Article 226 of the Constitution of India, cannot go into the factual aspects relating to genuineness of the marriage and its legality. It is for the respondents 1 & 2 to make proper enquiry and pass appropriate orders. It appears from the counter affidavit that the respondents 1 & 2 having made enquiry, after giving an opportunity to the writ petitioner, passed order in favour of the third respondent. In such circumstances, if the writ petitioner is aggrieved by the order passed by the first and second respondents regarding payment of pension, it is for her to challenge that order. The present writ petition, seeking mandamus is not maintainable, in view of the order passed by the first and second respondents in favour of the third respondent, based on Succession Certificate issued by Competent Court.

6.Accordingly, this writ petition is dismissed. It is made clear that dismissal of the writ petition will not stand in the way of the petitioner herein to approach the appropriate Court, if she is aggrieved by sanctioning of pension in favour of the third respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-I)

+ 1 CC TO Mr.S.JEYASINGH, ADVOCATE IN SR No. 95024

+ 1 CC TO Mr.P.THIAGARAJAN, ADVOCATE IN SR No. 95317

VS

TE/SV/SAR-1 : 12/12/2018 : 2P/3C

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ORDER MADE IN
W.P (MD) .No.720 of 2015
12.11.2018