

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 34532 of 2018

ORDER:

1) Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With the consent of both the parties, the writ petition is disposed of at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent No.2 in issuing file No.TAHPLC-GRVOPUT (GEN)/2939/2018-TH-PALACOLU, in endorsement L.Pr.No..../2018, dated .../2018, as illegal and arbitrary.

3) The petitioner is the second daughter of Deva Bala Sundara Rao and Deva Sanjeevamma. The said Deva Bala Sundara Rao, married Sanjeevamma and out of wedlock they begot two daughters and one son. After the death of the mother of the petitioner, the petitioner's father applied for family member certificate with the second respondent, who issued the same vide proceedings dated 22.09.2017. Subsequently, the father of the petitioner died on 09.04.2018 and after obtaining the death certificate on 18.04.2018, the petitioner submitted an application for issuance of family member certificate, which was returned on the ground the father of the petitioner is having another wife by name Meramma, who also claimed family member certificate and

that the matter requires to be dealt with by a civil Court. Challenging the said endorsement, the present writ petition is filed.

4) Learned counsel for the petitioner mainly submits that non issuance of family member certificate would put the petitioner to great hardship, since the pension and another benefits would not be released and by efflux of time they may get lapsed. He pleads that the family member certificate may be issued to the petitioner till an appropriate decision is taken by the Civil Court.

5) The same is opposed by the learned Government Pleader for revenue contending that when there is a dispute as to who the first wife of the deceased is, the question of issuing family member certificate would not arise. She would contend that though the Tahsildar has conducted enquiry, but the said enquiry is only to find out *prima facie* the truth in the relationship and not with regard to deciding the succession.

6) A perusal of the impugned proceedings would show that the Tahsildar has conducted enquiry to find out as to whether the claim made by the alleged second wife is genuine or not. *Prima facie* his enquiries revealed that the first wife of the deceased is Smt.Sanjeevamma, but at the time of his death, the deceased was living with Deva Meramma, who also applied for family member certificate on the demise of his husband Deva Bala Sundara Rao. Hence,

he rightly directed both the applicants to approach the civil Court, obtain appropriate orders and then claim family member certificate. Hence, the request of the petitioner cannot be accepted. The petitioner is at liberty to file a civil suit seeking appropriate relief, in which event, the trial Court shall dispose of the same at the earliest. It is needless to mention that the findings given in the impugned proceedings shall not in any way influence the civil Court in deciding the rights of the parties.

7) Accordingly, the writ petition is disposed of.

8) Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

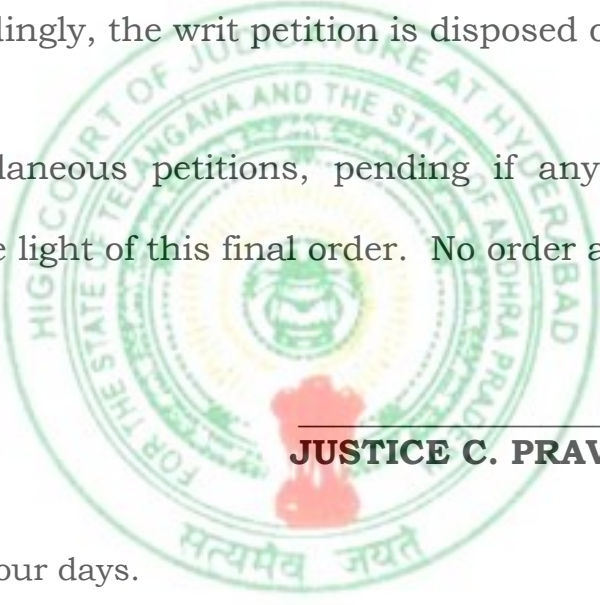
26.09.2018

Note:

Issue CC in four days.

B/o.

vhb



JUSTICE C. PRAVEEN KUMAR