

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27586 of 2019
and WMP.No.27079 of 2019

Sudha @ Thaiyal Nayagi

... Petitioner

Vs.

1.The Director General of Police,
Santhome,
Chennai-600 004.

2.The Accountant General,
D.M.S. Campus,
Tenampet,
Chennai-18.

3.Pichaydurai.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents to withhold the pension and payment of death cum retirement benefits found to be due to the 3rd respondent.

For Petitioner : Mr.P.Srividya

For Respondent : Mrs.M.Lalitha
Government Advocate

O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner married the 3rd respondent on 08.11.2000, who is employed under the 1st respondent as a Police Constable in the Traffic Wing. Out of their wedlock, they were blessed with a son namely Hari Vijay. The petitioner was driven out of the matrimonial home by the 3rd respondent when she was three months pregnant. Thereafter, the 3rd respondent filed a petition seeking divorce before the Additional Subordinate Judge,

Mayiladuthurai. Pending divorce petition, the 3rd respondent agreed to live with the petitioner and thereafter again due to difference of opinion, the 3rd respondent left the petitioner and his son. In the meantime, the 3rd respondent developed illicit intimacy with another woman and was living with her and he failed to maintain his legally wedded wife and their son. Therefore, the petitioner filed a complaint against the 3rd respondent before the Protection Officer on the ground of physical violence, mental agony and financial constraints. The Protection Officer after enquiry gave a report confirming the allegations made by the petitioner against the 3rd respondent. Thereafter, the 3rd respondent filed a petition before the Sub-Court, Tambaram seeking Judicial Separation. However, he failed to maintain the petitioner and her son. Therefore, the petitioner filed a petition seeking maintenance in M.C.No.48 of 2009 before the Judicial Magistrate-I, Mayiladuthurai, where the 3rd respondent remained *ex parte* and an order was passed in favour of the petitioner directing the 3rd respondent to pay Rs.3000/- p.m., to the petitioner and Rs.2000/- p.m., to the minor son till he attains the age of majority. However, the 3rd respondent did not comply with the order and failed to maintain his wife/petitioner and their son. Now, the petitioner's grievance is that the 3rd respondent is reaching his superannuation on 30.08.2020 and the 3rd respondent without maintaining the petitioner and his son trying to evade from his responsibilities and trying to retire voluntarily and to obtain death cum retirement benefits without paying the dues to the petitioner and her son as per the order of the Court. Therefore, she made a representation to the respondents 1 and 2 on 13.08.2019 seeking to restrain the respondents from making payment of the amounts payable to the 3rd respondents till he comply with the order of the Sub-Judge, Tambaram. Since, the respondents have not considered her representation, the present petition has been filed.

3. Heard both sides.

4. The learned counsel for the petitioner submitted that it would suffice if a direction is issued to the respondents 1 and 2 to consider the petitioner's representation dated 13.08.2019 and pass orders.

5. Though the petitioner has sought for a larger relief, this Court without going into the merits of the case, directs the respondents 1 and 2 to consider the petitioner's representation dated 13.08.2019 and pass orders on merits and in accordance with law after hearing the 3rd respondent, within a period of twelve weeks from the date of receipt of copy of this order.

For ready reference, the petitioner is directed to enclose a copy of the representation along with this order copy to enable the respondents to pass orders.

6. With the above direction, this writ petition stands disposed of. No costs. Connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director General of Police,
Santhome,
Chennai-600 004.

2. The Accountant General,
D.M.S. Campus,
Tenampet,
Chennai-18.

+2cc to M/s.R.Srividya, Advocate Sr.No.80141
+1 cc to The Government Pleader Sr.No.80700

AKM/31.10.19/3P- 6C /

सत्यमेव जयते

W.P.No.27586 of 2019

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