

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.30622 of 2019
and
W.M.P.No.30689 of 2019

Janaki

..Petitioner

vs

1.The Managing Director
Tamil Nadu Housing Board
No.493, Anna salai
Nandanam, Chennai-600 035.

2.Deputy Chief Accounts Officer
Pension Section
Tamil Nadu Housing Board
No.493, Anna salai
Nandanam, Chennai-600 035.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the proceedings issued in Board Letter No.rest-3/44823/2006, dated 05.02.2016 to quash the same as illegal and arbitrary and consequently direct the respondents to grant for family pension on account of death of late R.Chelladurai to the petitioner within a time frame.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.R.Bharath Kumar
(counsel for TNHB)

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O R D E R

Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the proceedings issued in Board Letter No.rest-3/44823/2006, dated 05.02.2016, to quash the same as illegal and arbitrary and consequently, direct the respondents to grant for family pension on account of death of late

R.Chelladurai to the petitioner within a time frame.

2. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

3. The case of the petitioner is that she claimed to be the wife of one (Late) Chelladurai. However, her request for claiming family pension and other benefits on behalf of the said Chelladurai was rejected by the Housing Board vide impugned order dated 05.02.2016 on the ground that one Neela & Neelavathi has filed a civil suit in O.S.No.249 of 2007 on the file of the District Munsif Court, Tanjore, for declaring herself as the legal heir of the said Chelladurai, the said suit was dismissed on 25.07.2012, challenging the said judgment, the said Neelavathi has preferred an appeal and the same was withdrawn by her and since the petitioner has not filed any suit for declaration as if she is the legal heir of the said Chelladurai, the 2nd respondent directed the petitioner to approach the competent Civil Court for the appropriate remedy. Challenging the same, the present writ petition is filed by the petitioner.

4. Learned counsel appearing for the petitioner submitted that initially, one Neelavathi has filed a civil suit for declaring herself as the legal heir of (Late) Chelladurai. The said suit was dismissed. However, the learned District Munsif, Tanjore, has observed that the petitioner is the first wife of (Late) Chelladurai and apart from that the petitioner has also obtained legal heir certificate from the Revenue Authority to prove that petitioner is the legal heir of (Late) Chelladurai. Therefore, he prays for allowing this writ petition.

5. This Court has perused the available records. The short issue involved in the present case is whether the petitioner is legal heir of (Late) Chelladurai or not. A perusal of the civil suit in O.S.No.249 of 2007 filed by one Neelavathi reveals that the learned District Munsif, Tanjore, observed that while (Late) Chelladurai was in service, he entered the name of one Jaya as his nominee in his service register and the said nomination is not cancelled till date. Further, the learned District Munsif has observed that the petitioner may be the first wife of (Late) Chelladurai. However, the suit filed by the said Neelavathi was also dismissed. Since the name of one Jaya is already entered in the service register of (Late) Chelladurai, the respondents have no power to adjudicate that who is legal heir of (Late) Chelladurai and therefore, they have directed the petitioner to approach the competent Civil Court for appropriate remedy.

6. In view of the above, there is no error in the impugned order of the respondents. Accordingly, the writ petition stands dismissed. However, this Court without expressing any opinion on

the merits of the case, grants liberty to the petitioner to approach the competent Civil Court for appropriate remedy. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director
Tamil Nadu Housing Board
No.493, Anna salai
Nandanam, Chennai-600 035.

2.Deputy Chief Accounts Officer
Pension Section
Tamil Nadu Housing Board
No.493, Anna salai
Nandanam, Chennai-600 035.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No. 91222

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GN(25/11/2019)

सत्यमेव जयते

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