BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.11.2019
CORAM
THE HONOURABLE ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.195 of 2019
and
C.M.P.(MD)No.1560 of 2019
in
WP(MD). 12329 of 2018

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Special Officer,
Chief Minister Special Cell,
Chennai - 600 009.

3. The District Collector,
Karur District,
Karur.

4. The District Collector,
Thirunelveli District,
Thirunelveli. ... Appellants/Respondents

Vs.

Vasuki ... Respondent/Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed by the learned Single Judge in W.P.(MD) No.12329 of 2018 dated 18.07.2018.

Prayer in WP(MD). 12329/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for entire records connected with the impugned order passed by the 3rd respondent in O.Mu/14539/2017/(T1) dated 28.09.2017 and quash the same and directing the 3rd respondent to pass appropriate orders to extent financial assistance to the petitioner and her minor children under Chief Ministers Public Relief Fund (CMPRF) due to the death of her husband Kumar on 01.03.2014 by considering her poor economic status as per her representation dated 23.04.2018 by holding fair enquiry.

For Appellants : Mr.A.K.Baskara Pandian, Special Government Pleader

For Respondent : Mr.K.K.Kannan

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JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

This intra court appeal is directed against the order dated 18.07.2018 allowing W.P.(MD)No.12329 of 2018 filed by the respondent herein.

2. The case of the respondent is that she married one Kumar on 01.06.2003. It was an inter-caste love marriage. The respondent's husband was working as a coolie in a motor company. Two children were born through the marriage. While so on 01.03.2014, when the husband of the respondent was taking bath in a water channel at Maayanoor, in Karur District, there was a sudden overflow of water caused by opening of the shutters of the dam. Kumar was washed away and made his watery grave. In this regard, Crime No.56 of 2014 was registered under Section 174 of Cr.P.C. on the file of the Maayanoor police station.

3. The respondent applied for solatium under the Chief Minister's Public Relief Fund. The petitioner enclosed all the relevant documents. The local Thasildar forwarded the respondent's application dated 11.01.2016 with a recommendatory note. But then, the request was rejected by the District Collector, Karur, vide communication dated 31.08.2017. The stand of the Government was that to be eligible to receive solatium from the Chief Minister's Public Relief Fund, the annual income of the applicant's family should not exceed Rs.24,000/-. In the case on hand, the annual income of the respondent's family was Rs.36,000/- and that rendered the respondent ineligible to receive relief. The respondent was informed of this vide communication dated 28.09.2017. This was put to challenge by the respondent in W.P.(MD)No.12329 of 2018. The Writ petition came to be allowed by the learned Single Judge in the following terms:

> "5. It is not in dispute that the petitioner's husband died on 01.03.2014. It is no doubt true that the Distress Relief Scheme under G.O.Ms. No.368, dated 23.06.2008 was invoked at that point of time. However, the petitioner's case for extension of distress relief came to be considered only in the year 2017 by the impugned order dated 28.09.2017. At which point of time, the scheme under G.O.Ms.No.89, Revenue (DM-I(1)) Department, dated 18.02.2015, was already in

vogue. As per the scheme under G.O.Ms.No.89, Revenue (DM-I(1)) Department, dated 18.02.2015, the annual family income of the victim was enhanced form Rs.24,000/- to Rs.48,000/- and the relief fund was also enhanced to Rs.50,000/- When the respondents had considered the case of the petitioner for grant of distress relief, they ought to have taken consideration of the existing Government Order as on the date of consideration. Since the claim of the petitioner came up for consideration before the respondent only in the year 2017, the relief under G.O.Ms. No.89, Revenue (DM-I(1)) Department, dated 18.02.2015 alone ought to have been considered and the petitioner should have been extended the distress relief. As such the impugned order rejecting the petitioner's claim is improper.

6. In the result, the writ petition stands allowed and the impugned order passed by the third respondent is quashed. Consequently, the matter is remanded back to the third respondent to consider the matter afresh in the light of the above observations and pass favourable order extending the distress relief to the legal heirs of the deceased, namely, Kumar. Such an exercise shall be made within a period of eight weeks from today. No costs."

4. Having heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent, we are of the view that the order impugned in this appeal does not warrant any interference.

5. It is true that the disbursement of the relief amount is governed by certain parameters. At the time of occurrence, G.O.Ms.No.368, dated 23.06.2008 held the field and it stipulated that the family income of the applicant should be Rs.24,000/- or less per annum. But by the time the respondent's application came to be considered, the norms underwent a revision and this eligibility limit was enhanced from Rs.24,000/- to Rs.48,000/-.

6. We are of the view that the learned Single Judge was right in holding that the case on hand must be determined only with reference to the revised norms in force at the time of consideration of the application.

7. That apart, the issue can be approached from yet another angle. The husband of the respondent died on account of the sudden release of water by opening of the dam shutters by the Public Works Department. In such cases, the tortious liability of the State cannot be ruled out. What has been directed to be awarded is a mere

sum of Rs.50,000/-. The respondent is an young widow with two children. Therefore, this is not a case in which appeal should have been filed at all. We would expect the State to have a robust litigation policy so that the filing of such appeals is avoided.

8. With these observations, the Writ appeal stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Secretary to the Government,
   The State of Tamil Nadu,
   Revenue Department,
   Fort St. George,
   Chennai - 600 009.

2. The Special Officer,
   Chief Minister Special Cell,
   Chennai - 600 009.

3. The District Collector,
   Karur District,
   Karur.

4. The District Collector,
   Thirunelveli District,
   Thirunelveli.

+1 CC to Mr.K.K.KANNAN, Advocate (SR-97052[F] dated 08/11/2019)

+1 CC to SPL GP (SR-96950[F] dated 08/11/2019)

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