

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.26281 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in disbursing the pensionary retirement benefits of petitioner late Husband Dandu Laxmaiah S/o Masaiah who worked as a Attender in the 2nd respondent office in favour of 3rd respondent is illegal, arbitrary and in violation of principles of natural justice and consequently direct the 2nd respondent not to release the pensionary retirement benefits of petitioner late Husband Dandu Laxmaiah S/o Masaiah who worked as a Attender in the 2nd respondent office in favour of 3rd respondent.....”

Heard Si N.Sinivas Yadav, learned counsel for the petitioner and the learned Government Pleader for Services-I.

It has been contended by the petitioner that she is the first wife of one Dandu Laxmaiah and the said Dandu Laxmaiah has played fraud on her and obtained an ex-parte decree of divorce from the Family Court, Hyderabad, vide order dated 06.05.2013 in O.P.No.43 of 2011 and the petitioner was blessed with three children from out of the said wedlock.

It is further contended that the petitioner has filed an application to set aside the said ex-parte decree and the same is pending adjudication before the competent court. While so, her husband retired from service during January, 2019 and subsequently died on 03.11.2019.

The grievance of the petitioner is that consequent upon the death of her husband, the 2nd respondent is taking steps to pay

pensionary benefits to the 3rd respondent, who is not the legally wedded wife of her husband and who is having an illegal relationship with her husband while he was alive and therefore, the 3rd respondent is not entitled for pensionary benefits. Hence, the petitioner filed the present writ petition seeking a direction to the 2nd respondent not to disburse pensionary benefits in favour of the 3rd respondent.

Learned Government Pleader appearing for the respondents opposed the relief sought for in this writ petition.

This Court, having considered the submissions made by the learned counsel for the respective parties, is of the considered view that if the petitioner is aggrieved by the action of the 2nd respondent in disbursing the pensionary benefits of her late husband in favour of the 3rd respondent, it is for the petitioner to approach the competent civil court and sort out about the legal status and relationship with the deceased-Dandu Laxmaiah between her, who is claiming to be the first wife, and the 3rd respondent, who is claiming to be the second wife of the deceased employee. No proceedings have been annexed to this writ petition to demonstrate that the 2nd respondent is taking steps to disburse pension and retirement benefits in favour of the 3rd respondent. If Dandu Laxmaiah, during his life time after obtaining divorce from the petitioner, had remarried the 3rd respondent, then the 3rd respondent might be entitled for pension and retirement benefits. It is not for this Court to decide whether Dandu Laxmaiah remarried the 3rd respondent or not and who is the nominee in the service record of Dandu Laxmaiah has to be looked into. Unless and until

these issues are brought to the notice of this Court by the petitioner, this Court cannot adjudicate the dispute between the petitioner and the 3rd respondent. It is for the petitioner to approach the Competent Civil Court and obtain Succession Certificate and then approach the respondents for disbursement of pension and retirement benefits of the deceased Dandu Laxmaiah in accordance with law. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

28-11-2019
Prv

ABHINAND KUMAR SHAVIL, J

