

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.38931 OF 2017

O R D E R

The name of the petitioner as per the averments made in the writ affidavit is Smt. Y.Indira Swamy @ Smt. Y.Skindra Devi @ Smt. Y.Secendra Devi, and she claims to be the wife of one Y.Venkata Swamy, who worked as Circle Inspector of Police, and died in harness on 17.11.1997, and the case of the petitioner is that she is in receipt of service benefits of her husband. During his life time, the said Venkata Swamy was allotted LIG Flat No.103/9, IV Phase, KPHB Colony, Hyderabad vide letter No.10076/LIG/K2/86 dated 19.07.1986. Petitioner, who claims to be the wife of late Y.Venkata Swamy, made application dated 25.09.2017 to the 2nd respondent, mentioning her name as 'Y.Indira Swamy' and sought for transfer and registration of subject flat in her name. The 2nd respondent – Telangana Housing Board, represented by its Executive Engineer (Hg), Western Division, THB, KKP, vide the impugned communication in Lr.No103/9/LIG/Ph-IV/EE(WD)/2017 dated 18.10.2017, rejected the claim of the petitioner on the ground that the original allottee Y.Venkataswamy entered the name of his wife as 'Y.Skindra Devi' in the nomination form, and the petitioner, whose name is 'Smt. Y.Indira Swamy', failed to prove that she is 'Y.Skindra Devi'. The 2nd respondent further required the petitioner to submit 'family member certificate' / Legal Heirs Certificate/ issued by competent revenue authority, or by a competent civil court, enabling them to take steps to transfer and register the subject flat in accordance with law. Aggrieved by the impugned communication dated 18.10.2017, the present writ petition is filed.

Learned counsel appearing for the petitioner, based on the averments made in the writ affidavit, submits that prior to the marriage, in the school records the name of the petitioner is recorded as 'Ch. Secendra Devi', but she was called 'Ch.Skindra Devi' and after marriage with Mr. Y.Venkat Swamy, she was called 'Y.Indira Swamy'. Learned counsel submits that the husband of the petitioner died in an extremists encounter, and the petitioner, who is his wife, received compensation, and is also in receipt of his service benefits. If the petitioner is not the wife of Y.Venkat Swamy, she would not have been in receipt of his service benefits. Learned counsel submits that explaining the above discrepancy in the name, petitioner also filed an affidavit attested by a judicial officer. He submits that these circumstances prove that the petitioner is 'Y.Skindra Devi' and is entitled for transfer and registration of subject flat in her name. But the respondents, taking hyper-technical objections, rejected the request of the petitioner, and hence the impugned communication may be set aside and the 2nd respondent may be directed to transfer and register the subject flat in the name of the petitioner.

On the other hand, Si C.Buchi Reddy, learned Standing Counsel appearing for the respondents supporting the impugned communication, submitted that the original allottee has entered the name of his wife as 'Y.Skindra Devi' in the nomination form, but the petitioner, whose name is 'Y.Indira Swamy', failed to prove that she is 'Y.Skindra Devi'. Therefore, the 2nd respondent issued the impugned communication and hence the same may not be interfered with.

In this case, there is no dispute that the subject flat was allotted to Y.Venkat Swamy, and he entered the name of his wife as 'Y.Skindra Devi'

in the nomination form. For effecting transfer and registration in the name of nominee after the death of original allottee, the declaration given in the nomination form, forms the basis. But the name of the petitioner is 'Smt. Y.Indira Swamy', and except an affidavit, the petitioner has not produced any document to show that she is 'Smt. Y.Skindra Devi' and that both the names belong to one and the same person i.e., the petitioner. In the absence of any tangible proof, the action of respondents in refusing to effect transfer and registration in the name of the petitioner, cannot be faulted.

However, as mentioned in the impugned communication, petitioner is at liberty to obtain declaration from competent civil court and based on which the respondent No.2 shall take action in accordance with law.

It is made clear that the competent court shall decide the claim of the petitioner in accordance with law, without being influenced by any observation made in this order.

Writ petition is accordingly disposed off.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

Date: 29—10—2019

Avs