Serial No. 13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP No. 23 of 2019

Date of Decision: 16.12.2020

Smti Phultina Lapang **Vs.** Smti Christine Dohling

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Ms. S. Shrestha, Adv.

For the Respondent(s) : Mr. D. Thabah, Adv.

i) Whether approved for reporting in Law journals etc. Yes/No

ii) Whether approved for publication in press: Yes/No

1. This is an application assailing the order dated 14.05.2019 passed by the Additional Judge, District Council Court, Shillong in Succession Misc. Case No. 8 of 2018. The grievances as set out by the petitioner is that, the respondent had filed an application No. 328 of 2018 dated 06.07.2018 before the lower Court praying for a direction that the petitioner deposit the debts and securities received by her on account of the death of her husband before the trial Court. The matter regarding the other service benefit namely; family pension had come before this Court by way of WP(C) No. 223 of 2014 which was disposed of by order dated 26.05.2015 with a direction that the disputes between the

parties, as who is the legally married wife of the deceased employee is to be decided by the learned Court below. It was also made clear by the said order that as soon as the said petition was decided, liberty will be granted to either the parties who ever successful to bring this fact to the competent authority.

2. Ms. S. Shrestha, learned counsel for the petitioner submits that the only limited prayer in this application is that, due to the non-appearance of the petitioner in the proceedings before the Court of the Additional Judge, District Council Court, due to the illness of the arguing counsel, the Court had passed the impugned order wherein it was directed that the petitioner surrender all the debts and securities left behind by the deceased employee which had been collected by the petitioner and the same to be deposited before the lower Court within 3(three) months. The learned counsel also submits that they are actively participating in the hearing of the main Succession Misc. Case, and the impugned direction being passed not based on any finding is illegal and without any jurisdiction.

3. Mr. D. Thabah, learned counsel for the respondent submits that the matter had been long pending and the respondent had obtained the succession certificate, which is now in question since the year 03.10.2011. However, he fairly submits that it will be in the interest of all the parties, if the matter pending before the Court of Additional Judge, District Council Court, Shillong be expedited and findings arrived at, to enable the rightful claimant to be granted family pension and other dues as admissible.

4. I have heard learned counsel for the parties. The impugned order, reflects that the Court of the Additional Judge, District Council Court, Shillong had allowed the application No. 328 of 2018 without arriving at any finding and was based solely on the fact that the opposite party i.e. the petitioner herein was absent without any steps. It is also to be noted that additional issues have already been framed to determine as to who is the rightful wife of the deceased employee.

5. The situation situated thus, the part of the impugned order wherein directions have been issued to the petitioner to surrender the debts and securities which had been drawn by her, being arrived at without any cogent findings is liable to be interfered with and is accordingly done so and the same is set aside. As such, it is directed that the petition No. 328 of 2018 be taken up for fresh consideration by the learned Court below along with main Succession Misc. Case No. 8 of 2018.

6. As the matter is still pending adjudication and additional issues have already been framed, it is expected that the parties cooperate so that the matter is expeditiously disposed of by the learned Court below in accordance with law.

7. For the reasons aforesaid, this petition is allowed to the extent as indicated above and disposed accordingly.

JUDGE

Meghalaya
16.12.2020
"V. Lyndem-PS"