

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 31012 OF 2013

S.Sivagami

.. Petitioner

- Vs -

1. The Senior Divisional Accounts Officer, (Pension),
Tenampet, Chennai.

2.Chinna Kanniyammal

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the 1st respondent to cancel the pension amount received by the 2nd respondent, based on the representation of the petitioner dated 07.10.2013.

For Petitioner : Mr. M.Ravi

For Respondents: Mr.Vijayashankar for R1
: M/s. PA.Sudesh Kumar for R2

ORDER

This writ petition is filed by the petitioner to cancel the pensionary benefit paid to the 2nd respondent, as she is not the legal heir and that the legal heir certificate has been cancelled by the RDS vide order dated 3.2.01.

2. It is the case of the petitioner that she is the granddaughter of one Govindan, an employee of Railway Department, who breathed his last on 21.10.1998. Thereafter, one Chinna Kanniyammal, the 2nd respondent herein, claiming to be the second wife of the petitioner's grandfather, on the basis of the legal heir certificate, started receiving pension from the year 2001. It is the further averment of the petitioner that her grandmother Lingammal (deceased), the first wife of the petitioner's grandfather, is only eligible for getting the pension. In this regard, the petitioner submitted a representation to the RDO, Tirupattur on 16.07.2012 for cancelling the legal heir certificate issued to the 2nd respondent. It is further averred that on receipt of

petitioner's representation, after conducting enquiry, the Revenue Divisional Officer cancelled the legal heir certificate issued to the 2nd respondent. It is the further averment of the petitioner that though the legal heir certificate issued to the 2nd respondent stood cancelled, she has been receiving the pension continuously. Therefore, the petitioner submitted a representation on 07.10.2016 to cancel the pension being received by the 2nd respondent. Since no order has been passed on the petitioner's representation, the present writ petition has been filed.

3. Mr. Ravi, learned Counsel appearing for the petitioner submitted that the petitioner is the only legal heir of the said Govindan and, however, without the her knowledge, the 2nd respondent approached the RDO and obtained legal heir certificate and based on the said certificate, the 2nd respondent has been receiving pension since 2001. As soon as the above malpractice came to the knowledge petitioner, she immediately made a representation to the RDO, Tirupattur for cancelling the legal heir certificate and after enquiry, the said legal heir certificate was cancelled. However, the 2nd respondent has been receiving the pension till date inspite of the representation submitted to the 1st respondent. Therefore, it is prayed that the payment of pension be stopped by passing suitable orders on the representation of the petitioner.

4. On the above contention, this Court heard the learned counsel appearing for the respective respondents and perused the materials available on record.

5. It is not in dispute that since 2001 the 2nd respondent has been receiving pension on the strength of the legal heir certificate issued to her in respect of one Govindan, who is the grandfather of the petitioner. Though it is the case of the petitioner that the said legal heir certificate has since been cancelled by the Revenue Divisional Officer, Tirupattur, after conducting a thorough enquiry, however, neither the cancellation order has been annexed with the typed set nor the said authority has been made a party, who can vouch for the said fact. However, almost a decade from the date when the 2nd respondent started receiving the pension, the present petition has been filed. There is no explanation forth coming from the petitioner for the delay in approaching this Court. Further, there is no explanation from the petitioner as to how she came to know about the pension being received by the 2nd respondent since 2001, that too in the year 2012.

6. The petitioner, without any proper materials to vouch for her assertions, cannot come before this Court and make a bald statement about the genuineness and veracity of the 2nd respondent. If at all the petitioner is aggrieved by any act of

the 2nd respondent, as claimed by her, the petitioner has to pursue her remedy before the competent civil court and it is not open to the petitioner to invoke the inherent jurisdiction of this Court to achieve her object.

7. For the reasons aforesaid, this Court is not inclined to grant the relief as sought for by the petitioner. Accordingly this writ petition is dismissed. However, liberty is granted to the petitioner to workout her remedies before the competent forum in a manner known to law. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs/GLN

To
The Senior Divisional Accounts Officer,
(Pension),
Teynampet, Chennai.

W.P. NO.31012 OF 2013

NR(CO)
CB(28/09/2020)



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