

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 13.10.2020

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.14758 of 2020

and

W.M.P.Nos.18341 & 18345 of 2020

1.I.Arockia Mary

2.K.Pappathi

...Petitioners

Vs.

1.The State of Tamil Nadu,

Rep.by Secretary to the Government,

The Ministry of Health and Family Welfare Department,

Secretariat, Chennai - 600 009.

2.The Dean,

Government Stanley Hospital,

Chennai - 600 001.

3.K.Chitra

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of mandamus directing the 2nd respondent to disburse the service benefits such as provident fund, family pension, gratuity and earned leave etc., due to the deceased K.Dharmalingam to the petitioners.

For Petitioners

: Ms.S.Revathy

For Respondents

: Mr.Karthikai Balan

Government Advocate For R1 & R2

ORDER

The writ petition is filed by the petitioners seeking to claim right over the retirement benefits of a deceased employee one K.Dharmalingam, who died on 20.08.2020. According to the petitioner that the said K.Dharmalingam was employed in the second respondent Hospital at the time of his death and he was working as Lab Supervisor. The second petitioner claims herself to be mother of the deceased K.Dharmalingam. The first petitioner claims no relationship with the deceased K.Dharmalingam, but claims her right on the basis of a Will executed by deceased K.Dharmalingam, when was alive bequeathing of service benefits due to him on her, by so called Will dated 13.06.2018. According to the first petitioner, the third respondent was married to one K.Dharmalingam but however, they were separated but not

legally divorced.

2.This Court is unable to entertain this writ petition for the simple reason that the first petitioner has no locus standi to claim any right over the asset of the deceased K.Dharmalingam. The relationship which is sought to be established by the first petitioner with that of the deceased K.Dharmalingam appears to be questionable and doubtful and on what circumstances, the so called Will was executed, cannot be examined by this Court in the exercise of its jurisdiction under Article 226 of Constitution of India.

3.In any event, a claim based on a Will cannot be entertained by this Court, as it is a matter of evidence to prove the veracity of the Will by letting in evidence and in such circumstances this Court cannot entertain this writ petition.

4.It is open to the petitioner to approach the appropriate forum to workout her remedies and as far as the present writ petition is concerned, this Court is not inclined to entertain, as the writ petition it is not maintainable, at the instance of the first petitioner and also no adjudication could be undertaken by this Court in respect of the claim on the basis of the so called Will executed by the deceased employee.

5.Therefore, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pns/mrm

To

1.The Secretary to the Government,
The Ministry of Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Dean,
Government Stanley Hospital,
Chennai - 600 001.

+1cc to Mr.S.Revathy, Advocate, S.R.No.34263

W.P.No.14758 of 2020

BR(CO)

GN(06/11/2020)

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