IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.16782 of 2020 and
W.M.P.No.20797 of 2020

Sudha alias Thaiyalnayaki ... Petitioner

Versus

1.The Director General of Police,
Santhome, Chennai 600 004.

2.The Commissioner of Police,
Greater Chennai,
Rippon Buildings,
Chennai - 3.

3.The Joint Commissioner of Police,
South Zone, Chennai-16.

4.The Accountant General,
D.M.S.Campus,
Teynampet, Chennai -18.

5.Pichaidurai .. Respondents

PRAYER : petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents 1 to 4 herein from entertaining the request from the fifth respondent herein for altering his Service Register by deleting her name as his wife for all future benefits and substituting some one's name for the said purpose.

For Petitioner : Mr.A.Muthukumar
For Respondents: Mr.J.Pothiraj, SGP for R1 to R4

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ORDER

This writ petition has been filed to forbear the respondents 1 to 4 herein from entertaining the request from the fifth respondent herein for altering his Service Register by deleting the petitioner's name as his wife for all future benefits and substituting some one's name for the said purpose.

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2. According to the petitioner, she was a wife of the fifth respondent who is working as a Special Assistant Inspector in the Police Force. There was an estrangement between the petitioner and the fifth respondent which led to filing of matrimonial case. According to the averment contained in the affidavit, the fifth respondent had filed H.M.O.P.No.41 of 2016 before the Subordinate Judge, Mayiladuthurai and the said H.M.O.P was also allowed on 27.02.2020. As against which, the petitioner preferred C.M.A.(H.M.O.P.)No.7 of 2020, before the District Court, Nagapattinam. The said appeal is still pending.

3. The grievance of the petitioner herein is that taking advantage of the divorce being granted by the Subordinate Judge, Mayiladuthurai, in the above said H.M.O.P., the petitioner is taking immediate steps to substitute some one's name in the Service Register. Even according to her own statement in the affidavit filed in this connection, she appears to have approached the Civil Court, Mayiladuthurai in unnumbered O.S of 2020. The learned Judge has rejected the plaint on 14.10.2020, for the reason that the petitioner who was the plaintiff therein was a divorced wife of the fifth respondent and she cannot question the action of the fifth respondent who was defendant therein, in substituting any one's name in the Service Register.

4. The petitioner instead of pursuing her civil remedy against the rejection of the plaint, has approached this Court seeking issuance of a writ of mandamus. The petitioner cannot be allowed to invoke the extraordinary jurisdiction of this Court in settlement of matrimonial matters. Even otherwise, factually as on date, she is a divorced wife of the fifth respondent. Unless such status is reversed, she has no locus standi to seek such direction. In any event, the petitioner has chosen to approach the Civil Court for the same relief, it is open to her to pursue further remedies against the decision of the trial court, if she is so advised. But, it is certainly not open to the petitioner to approach this Court under Article 226 of the Constitution of India, in the interregnum and seek issue of writ of mandamus.

5. In view of the above, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

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To

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+1cc to Mr.A.Muthukumar, Advocate, S.R.No. 37803

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MJB(CO)
GN(29/12/2020)

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