

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) No.2257 of 2021

1.Valarmathi
2.Prabavathi
3.Vasanthi

...

Petitioners /
Plaintiffs

versus

The Chief Employee Relations Manager,
Indian Oil Corporation,
No.139, Nungambakkam High Road,
Indian Oil Bhavan, South Zone,
Marketing Division,
Chennai - 600 034.

...

Respondent /
Defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, to take on file the unnumbered O.S. Filing No.6411 of 2021 on the file of the learned District Munsif, Salem and consequently direct the Registry of the learned District Munsif, Salem to number the above suit.

For Petitioners

: Mr.T.Sundaravadanam

ORDER

This Civil Revision Petition is filed seeking direction to the learned District Munsif, Salem, to number the unnumbered O.S. Filing No.6411 of 2021.

2. The learned counsel for the petitioners submitted that, the first petitioner is the wife of the deceased Saravanan and petitioners 2 and 3 are the children born to the first petitioner and the deceased Saravanan. The marriage between the first petitioner and the deceased Saravanan had taken place on 09.06.1978. The deceased Saravanan had illicit relationship with one Vijaya. As the legal heirs of the deceased Saravanan, the petitioners are entitled to terminal benefits of the deceased Saravanan, who was an employee of Indian Oil Corporation. In spite of several requests, the respondent has not disbursed the terminal benefits stating that, there is rival claimant Vijaya. In this regard, petitioner filed W.P.No.7693 of 2014 and it was ordered in the Writ Petition that, since there is a rival claimant with regard to the terminal benefits of the deceased Saravanan, the petitioner has to work out her remedies before the Civil Court. On the basis, the present

suit is filed. However, the plaint has been returned stating the following returns;

"1. When the plaintiff have already obtained legal heir certificate from the concerned authorities. How is question of declaration of plaintiff has legal heir of deceased Saravanan has arises to be explained.

Hence returned.

-sd-

15.4.2019

correct and represent by

-sd- 27.4.2021

Counsel for plaintiff"

"1. The residential property showing that the plaintiff are residing in ZahirAmmpalayam to be filed?

2. Already legal heir certificate was issued by Vazhapadi Tahsildar. What is the necessity to seek the some relief?

3. The deceased lastly worked in Coimbatore. The respondent office at Chennai. How this suit is maintainable before this Court ?

4. Legal heir certificate of Vijaya to be filed ?

5. What is the cause of action as against the defendant ?

6. Full order W.P. in doc to be filed.

Returned

-sd-

28.04.2021."

3. It is now claimed by the learned counsel for the petitioners that, the rival claimant Vijaya is no more and she has no children born through the deceased Saravanan. The suit was filed only as per the direction of the order passed by this Court in W.P.No.7693 of 2014. If there is no legal representative to the deceased Vijaya, rival claimant for terminal benefits, there is no reason why the suit cannot be entertained. Even if there are rival claimants, it is open to the petitioners to maintain the suit for the reliefs claimed after impleading them. Therefore, the learned District Munsif, Salem, is directed to take the case in O.S. Filing No.6411 of 2021 on file and dispose the suit, on merits and in accordance with law.

4. This Civil Revision Petition is disposed of accordingly. However, there is no order as to costs.

26.10.2021

Speaking order / Non-speaking order

Index : Yes / No

Note : Registry is directed to return the original order copy to the learned counsel for the petitioners.

sri

To

The District Munsif, Salem.

G.CHANDRASEKHARAN, J.

sri



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WEB COPY

26.10.2021