



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19315 of 2019

WEB COPY

C.Mookkayi

... Petitioner

Vs.

1.The Superintending Engineer,
TANGEDCO,
Theni Distribution Circle,
Theni.

2.Lalitha

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to disburse the retained death benefits to the petitioner based on the representation, dated 24.08.2019.

For Petitioner : Mr.Arun Swaminathan

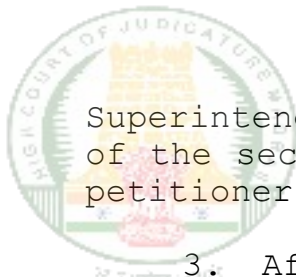
For R1 : Mr.T.Sakthikumaran

For R2 : Mr.D.Selvanayagam

ORDER

The petitioner has filed the present writ petition for a direction to the first respondent to disburse the retained death benefits to the petitioner based on the representation, dated 24.08.2019.

2. The petitioner is the mother of C.Balamurugan, who died on 18.08.2018 while working as Assistant Executive Engineer, Theni. According to the petitioner, retirement benefits payable to her son is Rs.40,44,013/-. The second respondent, who is her daughter-in-law and the wife of the deceased employee, agreed to pay the petitioner's share of Rs.10,11,000/- and executed an agreement on 06.03.2019. Based on the said agreement, the petitioner gave no objection for the amounts being paid to the second respondent by the first respondent. The first respondent has paid a total sum of Rs.25,73,454/- to the second respondent and has retained a sum of Rs.14,82,863/- with him. Subsequently, the second respondent gave a cheque bearing No.433384, Canara Bank, Theni Branch, dated 14.07.2019, for a sum of Rs.10,00,000/- to the petitioner. The said cheque was returned on presentation as signature differs. According to the petitioner, she gave a complaint to the



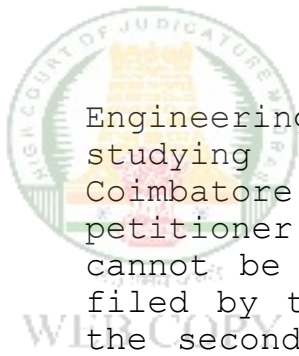
Superintendent of Police against the second respondent, as intention of the second respondent was to cheat the petitioner and hence, the petitioner has come out with the present writ petition.

3. After notice, the second respondent and the petitioner appeared before this Court on 17.10.2019 and the matter was referred to Mediation and Conciliation Centre. No settlement was arrived at during the Mediation and again the matter is posted before this Court.

4. The second respondent filed counter affidavit. The learned counsel appearing for the second respondent submitted that the marriage of the second respondent with deceased employee of the first respondent/son of the petitioner was inter-caste love marriage and from that date onwards, the petitioner and another son inimically treated the second respondent and her husband. They have excommunicated the second respondent and her husband. The husband of the second respondent/the deceased employee while he was alive, purchased the property in the name of the petitioner and she is enjoying the said property. Only at the instigation of the another son of the petitioner, she has filed the present writ petition. The second respondent is struggling with two unmarried children. The husband of the second respondent borrowed various loans. The total outstanding loan amount as on 18.11.2019 is Rs.30,60,903/- and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. From the above submissions and the documents filed in the typed set of papers, it is an admitted fact that the petitioner's son, the husband of the second respondent was working as Assistant Executive Engineer and died. Terminal benefits payable to him is calculated as Rs. 40,44,013/-. The employee died on 18.08.2018, during the course of employment, leaving behind the petitioner, second respondent and one daughter and one son, as his legal heirs. All of them are class-1 legal heirs and therefore, they are entitled to 1/4th share. The said 1/4th share works out to Rs.10,11,000/- . The petitioner is also entitled to the said amount. From the typed set of papers, it is seen that the petitioner and the second respondent entered into an agreement dated 06.03.2019 and the second respondent agreed to pay a sum of Rs.10,00,000/- to the petitioner. Based on the agreement, the petitioner gave no objection for the amounts being paid to the second respondent by first respondent. Subsequently, due to some misunderstanding, the second respondent is not willing to pay any amount to the petitioner. In the counter affidavit, the second respondent has stated that her husband took various loans and the outstanding loan amount as on 18.11.2019 is Rs.30,60,903/-. She has daughter namely B.Preethi, who has completed an



Engineering Degree (EEE) only on 01.04.2019 and her son Krithik is studying II year B.E., at Kamarajar College of Engineering, Coimbatore. These reasons are not acceptable for denying the petitioner's 1/4th share as per the Hindu Succession Act. The same cannot be denied for the reasons stated in the counter affidavit filed by the second respondent. Further, both the petitioner and the second respondent entered into an agreement, dated 06.03.2019 and the second respondent agreed to give 1/4th share of the terminal benefits to the petitioner received from the first respondent.

7. For the above reasons, the first respondent is directed to pay a sum of Rs.10,11,000/- from and out of Rs.14,82,863/-, retained by him, to the petitioner directly and pay the balance amount to the second respondent.

8. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

The Superintending Engineer,
TANGEDCO,
Theni Distribution Circle,
Theni.

+1 CC to M/s.D.SELVANAYAGAM, Advocate(SR-23757[F] dated 23/07/2021)

W.P. (MD)No.19315 of 2019

23.07.2021

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