

**HONOURABLE JUSTICE G.SRI DEVI
AND
HONOURABLE SMT JUSTICE JUVVADI SRIDEVI**

F.C.A.No.212 of 2019

JUDGMENT: (*Per. Hon'ble Justice G.Sri Devi*)

This appeal is filed aggrieved by the order and decree dated 24.07.2019 passed by the Judge, Additional Family Court, City Civil Court, Hyderabad, in O.P.No.1065 of 2014.

The appellant herein filed the aforesaid O.P.No.1065 of 2014 under Order VII Rule 1 read with Section 26 of the Code of Civil Procedure seeking to declare her as legally wedded wife of late N.Venkateshwar Rao and consequently issue a direction to release all the benefits due to the estate of said N.Venkateshwar Rao. It is stated in the petition that the marriage of the appellant and the said Venkateshwar Rao was performed on 07.05.1969 at Veerabhadraswamy Temple, Bonthapally village, Medak District and thereafter some disputes arose between them and as such they started residing separately. It is further stated that the petition filed

by the appellant seeking maintenance was allowed in the light of the compromise arrived at between the parties and that the said Venkateshwar Rao had paid maintenance to the appellant for some period only. Subsequently, the said Venkateshwar Rao, while working as Deputy Tahsildar, died in harness on 05.05.2012 and thereafter the appellant made an application to the Tahsildar for issuance of legal heir certificate. It is further stated that vide letter, dated 11.05.2012, addressed to the 2nd respondent herein, the appellant made a request to settle her pensionary benefits as early as possible. It is further stated that having come to know that the 1st respondent herein claiming herself to be the widow of the said Venkateshwar Rao and seeking to obtain legal heir certificate from the Tahsildar, Uppal Mandal, Rangareddy District, the appellant made an application dated 21.05.2012 to the said Tahsildar not to issue any certificate to any third party. Thereafter, the Tahsildar has made an endorsement dated 04.07.2012 directing the

appellant and the 1st respondent to obtain a legal heir certificate from the competent Civil Court and accordingly the 1st respondent filed W.P.No.18001 of 2015 before this Court and the same is pending. It is further stated that the appellant is entitled to all the monetary benefits as well as pensionary benefits due to a Government servant and that the 1st respondent has no manner of right to claim any amount much less to say the monetary benefits of her deceased husband.

The 2nd respondent herein remained *ex parte*.

The 1st respondent herein has filed Counter, *inter alia*, contending that late N.Venkateshwar Rao was her husband and the appellant is not legally wedded wife of the said Venkateshwar Rao and that she is not entitled for the benefits of the said Venkateshwar Rao. It is further contended that her marriage was performed with the said Venkateshwar Rao on 11.10.1991 and they were blessed with two daughters and that the said Venkateshwar Rao has

nominated her name in his Service Register as his nominee to receive Life Time arrears of pension, gratuity, Commuted Value of Pension, Death relief etc., and that the 2nd respondent has paid her husband's funeral expenses of Rs.10,000/- on the date of his death. Further, the 2nd respondent has processed the file for payment of service pension and APGLI etc., to the 1st respondent. It is further contended that the 1st respondent has been granted with Family Member Certificate dated 29.06.2012 by the Tahsildar, Uppal Mandal, showing her name and the names of children of the deceased Venkateshwar Rao. It is further contended that the 1st respondent has filed W.P.No.18001 of 2015 questioning the action of the 2nd respondent and thereafter, the District Collector, after making an enquiry into the claim of the appellant, rejected the same with a direction to the 2nd respondent to make payment of all pensionary and terminal benefits to the 1st respondent.

On behalf of the appellant, P.Ws.1 to 3 were examined and Exs.A1 to A4 were marked. On behalf of the 1st respondent, R.W.1 was examined and Exs.B1 to B20 were marked.

The trial Court, on consideration of the entire material available on record, dismissed the Petition holding that the appellant herein has failed to establish that she is the legally wedded wife of the aforesaid Venkateswar Rao. Aggrieved by the same, the present appeal has been preferred by the appellant.

Heard learned Counsel for the appellant and the learned Counsel for the 1st respondent and perused the impugned order including the material available on record.

In the instant case, the question that arises for consideration is whether the appellant herein is the legally wedded wife of late N.Venkateshwar Rao and is entitled for all the retiral benefits of said Venkateshwar Rao.

The contention of the learned Counsel for the appellant is that the oral and documentary evidence adduced in the case proves that the appellant is the legally wedded wife of the said Venkateshwar Rao and, therefore, she is entitled to the retiral benefits of the said Venkateshwar Rao. In support of his contention, he relied upon Wedding Invitation Card (Ex.A1); Death Certificate of Venkateshwar Rao (Ex.A2); Voter Identity Card of the appellant (Ex.A3) and true copy of the order dated 13.03.1980 in Crime No.9 of 1979 (Ex.A4).

The evidence of the appellant, who was examined as P.W.1, plays a pivotal role to establish the factum of marriage between the appellant and the said Venkateshwar Rao. The appellant (P.W.1) has admitted in her cross-examination that except the Marriage Card, she does not have any other proof of marriage with late Venkateshwar Rao. The trial Court rightly held that the Wedding Card is not sufficient to prove the marriage between the appellant and

the said Venkateshwar Rao as there is likelihood of cancellation of marriage even after printing the Wedding Card.

Reliance was next placed upon Ex.A4, copy of the order dated 13.03.1980 in Crime No.9 of 1979 on the file of Munsif Magistrate, Medak, wherein the compromise petition (Crl.M.P.No.406 of 1980) was allowed in terms of the compromise entered into between the appellant and the said Venkateshwar Rao. However, in the cross-examination, P.W.1 has admitted that the case number is not reflected in the petition copy, which was filed along with the docket order in Ex.A4. There is a lot of ambiguity in Ex.A4 and, therefore, Ex.A4 is of no use to the appellant to prove her marriage with the said Venkateshwar Rao. Further, the appellant has relied on Ex.A3-Indian Election Commission Identity Card to establish that her husband's name was mentioned as N.Venkateshwar Rao. However, in the cross-examination, the appellant (P.W.1) has admitted that in

Ex.A3, her father's name was mentioned as Venkateswar Rao and her husband's name was not mentioned. Therefore, Ex.A3 is also not helpful to the case of the appellant. In Ex.A2 -Death Certificate filed by the appellant, the date and place of death of the said Venkateswar Rao was mentioned as 05.05.2012 at Kodipyaka, whereas in Ex.B15-Death Certificate filed by the 1st respondent, it was mentioned that the date and place of death of the said Venkateswar Rao as 05.05.2012 at Nagole, L.B.Nagar, Hyderabad and the said certificate was issued by the Greater Hyderabad Municipal Corporation, Hyderabad. From the material available on record, it is clear that as on the date of death of the said Venkateswar Rao, the appellant was not living along with him and she has simply filed Ex.A2, which was obtained from the Gram Panchayanat, Nagaram. Even the appellant was not aware of the place of death of the said Venkateswar Rao. P.W.3 has stated in his evidence that the appellant (P.W.1) is his younger sister-in-law and that he had

participated in the marriage ceremony of P.W.1 and the said Venkateshwar Rao on 07.05.1969. However, in his cross-examination, he admitted that there is no proof of marriage of P.W.1 with the said Venkateshwar Rao and that there is also no proof to show that he has attended the marriage.

Coming to the evidence of the 1st respondent, who was examined as R.W.1, she asserted that she is the legally wedded wife of late N.Venkateshwar Rao and their marriage took place on 11.10.1991 at Sri Ramalayam Temple, Gowliguda, Hyderabad, and they were blessed with two daughters and that Ex.B1 is the Wedding Invitation Card. Ex.B2-Photographs along with C.D. prima facie establishes the marriage between the 1st respondent and the said Venkateswar Rao. In Ex.B12-Copy of APGLI issued by the Directorate of Insurance and Ex.B13-Copy of LIC policy of the deceased Venkateswar Rao, the name of the 1st respondent (R.W.1) was mentioned as his nominee. In Ex.B14-Copy of Service Register of the said Venkateswar

Rao, the name of the 1st respondent was mentioned as his wife and nominee. From a perusal of Ex.B16-Family Member Certificate issued by the Tahsildar, Uppal Mandal, Rangareddy District, it is clear that the said N.Venkateshwar Rao, who was working as Deputy Tahsildar, has expired on 05.05.2012 leaving behind the 1st respondent (N.Sujatha) as his wife and one Smt.N.Sruthi and Kum.N.Monika as his two daughters. Therefore, the trial Court is rightly held that the appellant has failed to establish that she is the legally wedded wife of late N.Venkateshwar Rao and as such she is not entitled to the retiral benefits of the said N.Venkateshwar Rao.

Having regard to the aforesaid reasons, we are of the considered opinion that there is no illegality or manifest error in the order passed by the Court below and hence there are no valid grounds warranting interference of this Court.

Accordingly, the Family Court Appeal is dismissed.

There shall be no order as to costs.

Miscellaneous Petitions pending if any shall stand closed.

JUSTICE G.SRI DEVI

JUSTICE JUVVADI SRIDEVI

02.09.2022
Gsn.