IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1664 of 2023
and CMP No.14818 of 2023

Lucy Alice .. Appellant

-vs-

1. P.Nirmala
2. Harish Noel

3. The Special Secretary to Government,
Government of Tamil Nadu,
Public (RH-1) Department,
Secretary, Fort St.George,
Chennai-600 009.

4. The District Collector,
Chennai District,
Singaravelar Maligai,
Rajaji Salai,
Chennai-600 001.

5. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai-600 053 .. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 28.04.2023 passed in W.P.No.9104 of 2023.

For the Appellant : Mr.S.P.Kumanan

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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.S.P.Kumanan, learned counsel for the appellant.

2. The present appellant is the mother of the deceased employee whereas respondent Nos.1 and 2 are the widow and son of the deceased employee. The benefits arising on account of the death of the deceased is the subject matter. The legal heirship certificate was issued in favour of the present appellant as well as respondent Nos.1 and 2. A communication was issued by the Indian Embassy at Riyadh to the effect that a sum of Rs.46,69,489/- (Rupees forty six lakhs sixty nine thousand four hundred eighty nine only) was due and payable on account of the service benefits of the deceased to the legal heirs. The

present respondent Nos. 1 and 2 (original writ petitioners) sent a legal notice to the District Collector to disburse the amount payable to them excluding the present appellant. Thereafter, the instant writ petition was filed.

3. The learned Single Judge came to the conclusion that as per Section 33 of the Indian Succession Act, 1925, the present appellant mother would not be entitled for the benefits.

4. The learned counsel for the appellant relies upon Section 33A of the Indian Succession Act to contend that the mother also would be entitled for the payment of service benefits of the deceased.

5. Section 33A would apply only if there is no lineal descendant. In the present case, the deceased has left a widow and a lineal descendant (the son). In view of that, Section 33 only would apply. As per Section 33, the present appellant would not come within the realm of the beneficiary. The learned Single Judge has not committed any error.

The writ appeal as such is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.) **(D.B.C., J.)**
20.12.2023

Index : Yes/No
Neutral Citation : Yes/No
sra

To

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   Chennai-600 009.

2. The District Collector,
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   Singaravelar Maligai,
   Rajaji Salai, Chennai-600 001.

3. The Tahsildar,
   Ambattur Taluk,
   Ambattur, Chennai-600 053

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

WA No.1664 of 2023

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