



W.P.No. 24351 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 24351 of 2022

N. Nandhini

... Petitioner

Vs

1. The Sub Collector
Mettur
Mettur Taluk
Salem District.

2. The Tahsildar
Mettur
Mettur Taluk
Salem District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of certiorarified mandamus calling for the records relating to the proceedings of the first respondent in his office Ref:O.MU.1913/2021-D, dated 13.07.2022, quash the same and direct the first respondent to consider the report of the second respondent Tahsildar and issue Destitute Widow Certificate within the time fixed by this Court.



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For the Petitioner : Mr. C. Mani

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For the Respondents : Mr. U. Baranidharan

ORDER

The petitioner had given a representation seeking destitute certificate to be issued to her. This certificate was required by her consequent to the death of her husband Vijayakumar. She claimed that she has been left high and dry by her father-in-law and brothers-in-law and that she has no source of income and further she also has a young son to look after. She sought a certificate certifying her as a lady being destitute and requiring financial assistance from the Government.

2. The second respondent/Tahsildar in Salem District had made a preliminary enquiry on such representation. He had also examined the father-in-law and had also examined the fact whether the petitioner was earning any income from any other source. He had



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given an opinion that the petitioner had no fixed source of income and had also given a statement that according to him the father-in-law had not committed himself to provide any maintenance to the petitioner herein. He therefore recommended that she could be issued with a Destitute Widow Certificate.

3. The authority who has to so issue the certificate is the first respondent/Sub Collector/Revenue Divisional Officer at Mettur Taluk in Salem District. The said official however taking note of the facts of the case, stated that the father-in-law of the petitioner has some landed property, and if that property were to be partitioned, then the petitioner would, as a legal heir of one of the sons of the father-in-law would be entitled to a share in the property. Therefore, he had rejected the claim seeking Destitute Widow Certificate.

4. A further affidavit had been filed on behalf of the respondents stating that the first respondent had also examined the issue and had also examined the father-in-law and had obtained a statement from him wherein he had stated that he has properties and that if the properties are partitioned, the petitioner herein would get



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a share in the said property. The father-in-law also stated that consequent to the death of his son, the petitioner had also received a compensation of Rs.2,50,000/-.

5. A reply had been filed to that particular counter, not disputing the receipt of such compensation but at the same time asserting that the husband died leaving behind debts, and the petitioner had to pay the said amounts received by way of compensation towards discharge of the said debts.

6. A further counter had been filed that according to the information of the respondents, the petitioner is also doing tailoring work and that she is earning about Rs.5,000/- per month. This amount of Rs. 5,000/- probably had been stated since the Government in their G.OMs. No. 89 dated 05.07.2006, Personnel and Administrative Reforms (S) Department had occasion to re-examine an earlier Government Order whereby the limit for income was fixed at Rs.1,000/- for any individual to seek status as a destitute person and that was increased to Rs. 4,000/-.



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7. However, in the impugned order, the fact that the petitioner is either doing tailoring work or was earning an income of Rs. 5,000/- had not been stated. It is merely stated that the father-in-law has properties and if the properties are partitioned then she would get a share in the property.

8. The petitioner cannot remain waiting with folded hands for the properties to be partitioned and thereafter to be assigned to her and then, seek the status of not being categorized as destitute. Her needs are immediate. Her needs are to look after her son who requires his day to day expenses to be met out by her. The father-in-law has not given any assurance that he would so look after her for the present. A partition which is to be done either orally or through a written document or through order of court can always be subjected to being further questioned in manner known to law. It does not signify that on the date of partition and immediately thereafter without any question, a person would suddenly change his colours from the character of destitute and become economically in a position to look after himself or herself. The petitioner will have to wait for the other brothers of her husband, to consent for partition, wait for



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her father-in-law to consent for partition and then only seek any share being granted to her.

9. Therefore, I would set aside the impugned order but since there is a dispute over a small fact whether the petitioner is having income or not, I direct the first respondent to focus his enquiry only on that particular aspect whether the petitioner is earning any income. The fact that the father-in-law has properties cannot come to the advantage of the respondent or to the disadvantage of the petitioner in being categorized as a destitute lady.

10. The categorization of destitute lady is for the immediate present needs of the petitioner herein. The impugned order is therefore set aside. The first respondent is directed to re-examine the petitioner with respect to the income and if the income is less than Rs.4,000/-, a further direction is issued to the first respondent to straight away categorize her as a destitute person and issue necessary certificate so that she would get necessary benefits afforded by the Government. The Government extends such benefits only for persons who are left high and dry and in this case,



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consequent to the death of her husband a responsibility is thrust on the first respondent to ensure that every person who is eligible for such benefit gets such benefit. The vision of the legislature would otherwise be defeated by the executive and that should not happen.

11. The writ petition stands allowed but however with a direction to the first respondent to re-examine the entire issue and pass necessary orders on or before **28.02.2023**. Before passing such order, the first respondent may hear the petitioner. No costs.

30.01.2023

Index: Yes/no
mrn

To

1. The Sub Collector
Mettur
Mettur Taluk
Salem District.
2. The Tahsildar
Mettur
Mettur Taluk
Salem District.

C.V.KARTHIKEYAN, J.

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