



W.A.No.3197 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.3197 of 2023

N.Vinothini

Vs

.. Appellant

1. The State of Tamil Nadu
Rep.by the Secretary to Government
Revenue and Disaster Management Department
Fort St. George, Chennai – 600 009.
2. The Special Officer
Chief Minister's Special Cell,
Fort St. George, Secretariat,
Chennai – 600 009.
3. The District Collector
Collector Office, GST Road,
Chengalpattu District – 603 001.
4. The Revenue Divisional Officer
Taluk office Complex, GST Road,
Tambaram West, Chennai – 600 045.
5. The Tahsildar
Pallavaram Taluk Office,
Pallavaram, Chrompet,
Chennai – 600 044.

.. Respondents



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PRAYER: Appeal under Clause 15 of the Letters Patent against the order dated 25.7.2023 in W.P.No.5309 of 2022 passed by the learned Single Judge.

For the Appellant : Mr.K.Newlin Frederick

For the Respondents : Mr.P.Muthukumar
State Government Pleader

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

We have heard Mr.K.Newlin Frederick, learned counsel for the appellant; and Mr.P.Muthukumar, learned State Government Pleader for the respondents.

2. The appeal is filed against the order passed by the learned Single Judge dismissing the writ petition filed by the appellant seeking compensation under the Disaster Response Fund announced by the Hon'ble Chief Minister of Tamil Nadu for the loss of her father in the cyclone "Vardah".



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3. The learned Single Judge has negated the relief on the ground that the post-mortem certificate of Late Nesabakthan does not suggest any injury mark on the person of the deceased or traces of any drowning due to cyclone or any injury caused by falling of objects or trees due to cyclone.

4. Learned counsel for the appellant relies upon the report of the Village Administrative Officer to contend that the father of the appellant died due to cyclone.

5. In fact, it will be a case of disputed questions of fact. The appellant will have to prove the factual matrix, more particularly, when the post-mortem certificate, as has been considered by the learned Single Judge, does not support the case of the appellant.

6. No doubt, the policy in question, pursuant to which compensation/solatium is claimed, is a benevolent one, however, unless the basic fact is proved, the same cannot be applied.



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7. Considering the aforesaid, we are inclined to accept the request of learned counsel for the appellant to permit the appellant to withdraw the writ petition, bearing W.P.No.5309 of 2022, with liberty to file a civil suit.

8. In the light of that, W.P.No.5309 of 2022 and the present appeal are allowed to be withdrawn and stand disposed of as withdrawn with liberty to the appellant to avail the remedy before the civil court. As the writ petition has been allowed to be withdrawn, the findings therein would not be relevant. There will be no order as to costs.

(S.V.G., C.J.)

(D.B.C., J.)

21.11.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi



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WEB COPY

To:

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

(sasi)

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