



W.P.(MD)No.4346 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.4346 of 2023
and
W.M.P.(MD)No.4091 of 2023**

G.Kamal

... Petitioner

Vs.

1. The Chief Educational Officer,
Pudukkottai,
Pudukkottai District.

2. The District Educational Officer,
Pudukkottai District,
Pudukkottai.

3. V.Sakthi,

4. Pandi Selvi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 to take appropriate action to conduct enquiry upon the petitioner's representation dated 31.01.2023 and to disburse the monetary benefits payable to the deceased Venkatachalam in favour of the petitioner.



W.P.(MD)No.4346 of 2023

For Petitioner : Mr.S.Vishnuvaradhan
For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader for R1 and R2

ORDER

This Writ Petition has been filed for a direction to the respondents 1 and 2 to take appropriate action to conduct enquiry upon the petitioner's representation dated 31.01.2023 and to disburse the monetary benefits payable to the deceased Venkatachalam in favour of the petitioner.

2. The case of the petitioner is that the petitioner's father one Govindarajan had a brother, namely, Venkatachalam, who was working as a Block Educational Officer at Gandarvakottai, Pudukkottai District. The said Venkatachalam married fourth respondent, out of their wedlock, the third respondent was born. However, due to misunderstanding, the said Venkatachalam and the fourth respondent got a decree of divorce, vide order, dated 14.08.2008 in H.M.O.P.No.5 of 2008 on the file of the Sub Court, Devakottai and it is a compromise decree, in which, the fourth respondent had given up her entire claims as well as her daughter's claim,



W.P.(MD)No.4346 of 2023

such as, maintenance, alimony and other claims over Venkatachalam's estate. During his lifetime, the said Venkatachalam had executed a Will dated 01.03.2021 in favour of the petitioner and the third respondent, by suppressing all these facts, seemed to have applied for the monetary benefits of deceased Venkatachalam. The petitioner had come to know the same when the first respondent had rejected the claim of the third respondent, vide proceedings, dated 01.08.2022. The third respondent, without even impleading the petitioner as a party to the said proceedings, filed a Writ Petition before this Court in W.P.(MD)No.21824 of 2022. This Court, by order, dated 15.11.2022, set aside the order dated 01.08.2022 of the first respondent and directed the first respondent to settle and disburse the said monetary benefits payable to deceased Venkatachalam in favour of the third respondent. Hence, the petitioner made an application to the second respondent on 27.12.2022 seeking disbursement of said sum in his favour based on the Will dated 01.03.2021. Only, by reply, dated 24.01.2023 of the second respondent, the petitioner was informed about the filing of the Writ Petition in W.P.(MD)No.21824 of 2022 by the third respondent. Immediately, the petitioner made a detailed representation to the second



W.P.(MD)No.4346 of 2023

respondent on 31.01.2023. But, till date, no action was taken. Therefore, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that it would suffice, if the respondents are directed to consider the petitioner's representation dated 31.01.2023, on merits and in accordance with law, within a specified period.

4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

5. The facts in the present case are not in dispute. Admittedly, the third respondent is a Class-I legal heir of the deceased Venkatachalam and she is entitled to receive all benefits. However, the Will has to be adjudicated only before the Competent Civil Court and not before the official respondents. Already, this Court quashed the order passed against the third respondent and without challenging the order in the manner known to law, filing the present Writ Petition as against the legal heir is not



W.P.(MD)No.4346 of 2023

WEB COPY

sustainable one and absolutely, in order to harass the third respondent, the present Writ Petition has been filed. Hence, the prayer sought for in the Writ Petition cannot be granted.

6. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

01.03.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Chief Educational Officer,
Pudukkottai,
Pudukkottai District.
2. The District Educational Officer,
Pudukkottai District,
Pudukkottai.



WEB COPY



W.P.(MD)No.4346 of 2023

M.DHANDAPANI,J.

vji

**W.P.(MD)No.4346 of 2023
and
W.M.P.(MD)No.4091 of 2023**

01.03.2023