



WA No.2750 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.09.2024

CORAM:

THE HON'BLE MR.D. KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WA No.2750 of 2024

Mrs.K.Victoria

... Appellant

versus

1.The Chief Manager,
Corporate Office,
HR Department,
Indian Bank,
No.254-260, Avvai Shanmugam Salai,
Royapettah,
Chennai- 600 014.

2.The Chief Manager,
Indian Bank, Thiruvallur Bazzar Branch,
Plot No.2, J.N.Road,
Thiruvallur- 602 001.

3.Malliga

...Respondents

Cause title accepted, vide order of
court dtd 21.08.2024 made in
CMP No.14314 of 2024 in W.A.SR No.84269 of 2024

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(ACJ and PBBJ)

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PRAYER: Writ Appeal filed against the order of the learned Single Judge in W.P.No.5689 of 2024 dated 06.03.2024.

For the Appellant :Mr.S.Srinivasan

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

This Writ Appeal is filed against the order of the learned Single Judge in W.P.No.5689 of 2024 dated 06.03.2024

2. According to the appellant, her brother M.Santhosam was working as Sub staff in Indian Bank, Thiruvallur Bazar Branch, Thiruvallur and died as a bachelor on 30.07.2010. Thereafter, the Tahsildhar also issued a legal heirship certificate declaring that the appellant is the only legal heir of the deceased M.Santhosam. Based on said certificate, the appellant approached the authority concerned for disbursement of provident fund, gratuity and other death cum retirement benefits and the same was rejected on the



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ground that one Malliga claimed that she is a legally wedded wife of the deceased M.Santhosam and she has received all the monetary benefits of the deceased Santhosam in the year 2012. Challenging the same, the appellant filed the writ petition. According to the appellant, the writ court, without taking into account the aforesaid aspect, dismissed the writ petition. Challenging the same, the appellant has filed the present intra court appeal before this Court.

3. Learned counsel for the appellant submits that the said Malliga is not the legally wedded wife of the deceased Santhosam. This aspect was considered by the writ court in a proper perspective. Hence he seeks to set aside the order of the writ court and allow the appeal.

4. We have carefully examined the order passed by the writ court as well the perused the materials available on record.

5. It is seen that the appellant has not impleaded the said Malliga in the writ petition, who claims to be the legally wedded wife of the deceased



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Santhosam. Further, the said Malliga has received the benefits in the year 2012 and after a lapse of 12 years, the appellant has filed the writ petition seeking monetary benefits of the deceased Santhosam. Hence, the same is liable to be dismissed on the ground of delay and laches.

6. The Hon'ble Division Bench of this Court, in the case of ***S.Vaidhyathan Vs. Government of Tamil Nadu reported in 2018 SCC OnLine***, in para 14, it is held as under ;

“14. There is an inordinate delay and laches on the part of the appellant. What is laches is as follows:

“Laches or reasonable time are not defined under any statute or Rules. “Laches” or “Lashes” is an old french word for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment. Reasonable time depends upon the facts and circumstances of each case.”

In para 16 of the judgment cited supra, it is held as under;

16. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results



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in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone.....”

7. In **Karnataka Power Corpn. Ltd. v. K.Thangappan** reported in (2006) 4 SCC 322, the Hon'ble Supreme Court, at Paragraph 6, held as follows:

“6. Delay or latches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party'.....

16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the



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court after a long time Delay and laches are relevant factors for exercise of equitable jurisdiction.

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8. In the case on hand, the appellant has not approached the court within the reasonable time. Keeping in mind the ratio laid down in the above cited decisions, and also considering the facts and circumstances of the case, this Court is of the view that the present writ appeal is liable to be dismissed on the ground of delay and laches. Hence, we are not inclined to interfere with the order of the writ court and consequently, the writ appeal stands dismissed. If at all the appellant wants to claim any right, she has to work out her remedy in the manner known to law. There shall be no order as to costs. Consequently, C.M.P.No.20179 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B., J.)
12.09.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn



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