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C.R.P.No.5043 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.06.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN**

**C.R.P.No.5043 of 2023**

V.Mahalakshmi ... Petitioner  
-Vs-

1.Ganga Bai  
2.The Commissioner  
Tambaram Municipality  
Tambaram. ... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order and decreetal order as made in I.A.No.1 of 2019 in O.S.No.198 of 2012 dated 07.09.2021 on the file of the Additional District Munsif, Kancheepuram.

For Petitioner : Mr.R.Bharanidharan  
For Respondents : Mr.P.Rajaramani  
for Mr.T.Gnana Banu - for R1  
Mr.P.Srinivas - for R2

**ORDER**

This Civil Revision petition arises against the order passed by the learned Additional District Munsif at Kancheepuram in I.A.No.1 of 2019 in O.S.No.198 of 2012. In and by way of the order, the learned Judge dismissed the application filed by the civil revision petitioner seeking the learned Judge to modify the Lok Adalat Award passed between the petitioner and the first respondent.



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For the sake of convenience, the parties will be referred to as per their rank in the original suit.

2. The background history is necessary for the purpose of disposal of this revision. The petitioner Tmt.Mahalakshmi, as plaintiff had filed O.S.No.198 of 2012 seeking for a declaration and mandatory injunction. The declaratory relief that was sought for was that she was the legally wedded wife of one Vinayagam, who was an employee of the second defendant Tambaram Municipality. She was constrained to present the suit on account of the fact that the first defendant / Tmt.Gangabai claimed that she is also the legal heir of the deceased Vinayagam.

3. Summons were issued in the suit and on receipt of the summons, Tmt.Gangabai entered appearance and she claimed that she is the legally wedded wife of the deceased Vinayagam. The matter did not go for trial as it was referred to the Taluk Legal Services Committee for recording the statement in terms of the Legal Services Authority Act, 1987. A compromise was entered into on the following terms:

" 1. It is agreed between the plaintiff and the 1st defendant that the plaintiff after receiving Arrears of Family Pension, Death cum Retirement Gratuity and other monetary benefits if any pending during the service of the (late) K.Vinayagam from the 2nd defendant, shall equally distribute the same among themselves.

2. It is agreed between the plaintiff and the 1st defendant



*that the 1st defendant is entitled to receive the future pension amount of the (late) K.Vinayagam from the 2nd defendant and hereby the plaintiff gives consent for the 1st defendant to receive the same as a Nominee.*

*3. It is agreed by the plaintiff and the 1st defendant that the 1st defendant hereby gives her consent for the appointment of the plaintiff in the 2nd defendant's office on the compassionate ground of death of K.Vinayagam.*

*4. The 2nd defendant may be directed to provide employment to the plaintiff on the compassionate ground.*

*5. The 2nd defendant may be directed to permit the 1st defendant to receive the future pension amount of the deceased K.Vinayagam as a Nominee.*

*6. The 2nd defendant may be directed to disburse the Arrears of Family Pension, Death cum Retirement Gratuity and other monetary benefits in favour of the plaintiff."*

4. On the passing of this decree, the petitioner Tmt.Mahalakshmi was granted the benefit of compassionate appointment by the first defendant. The dispute was only with respect to the past pension which is payable from the date of death of Vinayagam till the date of compromise and with respect to future pension.



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5. An application was filed in I.A.No.759 of 2015 stating that as the second clause of the aforesaid award was inexecutable, it required to be amended. By this amendment, for which the first defendant had no objection, it was agreed between the plaintiff and the first defendant that the plaintiff will be entitled to receive future pension and terminal benefits of late Vinayagam from the second defendant and distribute the same equally between the plaintiff and the first defendant. In other words, both the ladies had agreed that they will take 50% each of the amount of pension payable to Late Vinayagam. This application filed in I.A.No.759 of 2015 came to be allowed on 02.11.2015.

6. Subsequently, Tmt.Mahalakshmi pleaded that insofar as Clause 5 of the memorandum of compromise set forth above is concerned, that not having been deleted and that being in the same terms of Clause 2, she took out an application to delete the said clause. This petition was filed under Section 152 of the Civil Procedure Code. A detailed counter was filed to the same. After hearing both sides, the learned Additional District Munsif at Kancheepuram came to a conclusion that Section 152 of Civil Procedure Code will apply only for correction of arithmetic or typographical errors and the award not suffering from either, she dismissed the petition as not maintainable. Against the said order, the present revision has been presented.

7. I heard Mr.R.Bharanidharan for the petitioner, Mr.Rajaramani for the first



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defendant and Mr.P.Srinivas for the second defendant.

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8. After hearing the arguments for a while, Mr.Rajaramani learned counsel appearing for the first defendant submitted that on account of the objection given by the plaintiff to the second defendant Municipality, neither the pension-cum-terminal benefits nor the arrears have been disbursed so far. He produced a copy of the proceedings of the second defendant Municipality stating that the future pension too will be payable only on the matter being resolved by the Courts. He would give an undertaking to this Court that the pension that the first defendant would receive from the Municipality will be divided equally between Tmt.Mahalakshmi and Tmt.Gangabai. Mr.R.Bharanidharan was willing for this course of action. I adjourned the matter to enable the first defendant Gangabai to file an affidavit to that effect.

9. When the matter was taken up today, the learned counsel appearing for the first defendant filed the affidavit. The relevant portion of the undertaking is extracted hereunder:

*" 5. As the petitioner filed I.A.No.1 of 2009 in O.S.No.198 of 2012 for deletion of Clause 5 which enabling me to receive future pension from the Municipality. The said petition was dismissed by the lower court and it is challenged before this Hon'ble Court in the above Revision Petition.*



*6. I state that on the basis of compassionate award, the petitioner got appointed on compassionate ground in the Municipality and the petitioner is getting standard permanent income. Whereas I am expecting pension from the Municipality and I also undertakes to share the arrears of pension and benefit to be received from Municipality equally.*

*7. I hereby give this undertaking that in the event of future pension is given to me, I will regularly pay 50% of it to the petitioner immediately."*

10. Mr.R.Bharanidharan took time to get instructions from his client and reported that his client has no objection to the course of action proposed in the affidavit. The affidavit of undertaking that has been filed by Gangabai is taken on file and this revision is disposed on the following terms:

1. The death-cum-retirement benefits payable on account of the death of Vinayagam will be received by the plaintiff Tmt.Mahalakshmi. She is receiving this amount as a nominee for Tmt.Gangabai. Out of the total amount received, 50% of the amount will be paid to Tmt.Gangabai.
2. The arrears of pension payable from the date of death of Vinayagam till the date on which the compromise was entered into between before the Lok Adalat will also be received by Tmt.Mahalakshmi. From this amount that she receives also, she will pay 50% to Tmt.Gangabai.
3. A compromise having been entered into on 12.03.2013, there is



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accrued arrears of interest from 12.03.2013 till today. This arrears will be received by Tmt.Gangabai and she will pay 50% of this amount to Tmt.Mahalakshmi.

4. Insofar as the future pension is concerned, that is payable from August 2024 onwards, it shall be received by Tmt.Gangabai and she would pay 50% of the amount received as future pension to Tmt.Mahalakshmi within ten (10) days from the date of receipt of the amount from the second defendant Municipality.
5. In the event the plaintiff predeceases the first defendant or the first defendant predeceases the plaintiff, the surviving party will be entitled to the full pension that is payable by the second defendant Municipality.

11. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**07.06.2024**

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The Additional District Munsif,  
Kancheepuram.



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**V. LAKSHMINARAYANAN, J.**

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