



W.A.No.51 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.51 of 2023 and

WMP No.486 of 2023

Kuttiammal

... Appellant

Vs.

1. D.Kamatchiammal

2. The Director of School Education,
College Road, Chennai 600 006.

3. The Head Master, Maraimalai Adigal
Govt. Hr. Sec. School, Pallavaram,
Chennai-43.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order dated 07.08.2020 passed by the learned Single Judge in W.P. No.31035/2013.

For Appellant : Mr.P.Balamurugan

For Respondents : Mr.J.C.Durairaj, Addl.Govt.Pleader
for respondents 2 and 3
Mr.C.Bala Sundar for first respondent



W.A.No.51 of 2023

JUDGMENT

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

This Intra Court appeal has been filed, as against the order passed by

the learned Single Judge in W.P.No.31035 of 2013, dated 07.08.2020, in and by which, the official respondents were directed to settle the arrears of family pension and other consequential benefits to the first respondent herein, due to the death of late N.Durairaj. In the above writ petition, the appellant herein was arrayed as third respondent.

2. Perusal of the material records shows that, the first respondent herein, on the strength of decree obtained in O.S.No.47/2012, dated 25.07.2013, on the file of Principal Family Court, Chennai, declaring that she is the legally wedded wife of the deceased Durai Raj, has filed the writ petition seeking direction to the official respondents to grant family pension and other benefits to her. In the above writ petition, there was no representation on behalf of third respondent, who is the appellant herein. Further after recording the submission made by the learned Government Advocate that in compliance to the decree passed by the family court, proposal was sent to the office of the Accountant General for payment of



W.A.No.51 of 2023

family pension to her, the above writ petition was disposed of with direction, as stated supra. In such circumstances, the appellant herein has filed the instant writ appeal, as against the order of the writ court.

3. It is contended by the appellant that, she filed the change of vakalat on 04.03.2020 in the writ petition during the pandemic of Corona, and it was returned on 09.03.2020 for want of attestation, however, since the earlier counsel had put forth his signature, there is no need for attestation. In the meantime, her counsel name was not entered in the cause list and in the absence of her counsel, the above order has been passed. According to the appellant, her marriage with Durairaj(late) was registered on 11.09.1986; and after his demise, legal heirship certificate was issued by the authorities concerned, showing the appellant as his wife and Anandaraj, Vinodh Kumar as sons; and further, she is having all necessary documents to show that she alone is the legally wedded wife of the deceased. According to her, even though notice was served on her in the writ petition, due to pandemic situation, she was unable to produce the document before the court and hence, the order passed by the writ court is liable to be



W.A.No.51 of 2023

dismissed.

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4. Admittedly, based on the decree obtained by the first respondent herein O.S.No.47/2012, on the file of the Principal Family Court, Chennai, which attained finality, direction was given by the learned Single Judge to the official respondents to settle the arrears of family pension and other benefits. If the appellant is aggrieved by that order, saying that she alone is the legally wedded wife of the deceased and is entitled to get the pensionary benefits, the remedy is only before the civil court. Therefore, we are not inclined to entertain this writ appeal, as the dispute between the parties is civil in nature.

5. Accordingly, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed. It is open to the appellant to agitate the matter before the appropriate Civil Court.

(D.K.K.J.) (K.B.J.)

01.07.2024

Internet: Yes/No

Index : Yes/No

mst

Page 4 of 6



W.A.No.51 of 2023

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W.A.No.51 of 2023

D.KRISHNAKUMAR, J.
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W.A.No.51 of 2023

01.07.2024