



WP(MD) No.194 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.03.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.194 of 2021
and W.M.P.(MD)No.159 of 2021

Vellingiri

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation, Madurai-2.

2.The Assistant Commissioner (Accounts),
Madurai Corporation, Madurai-2.

3.Lakshmi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 2nd respondent made by his proceedings in Ma.Ne.27/014639/2015 dated 24.6.2020 and quash the same as illegal and consequently to direct the 2nd respondent to pay all the eligible monetary retirement benefits including family pension of the deceased husband of the petitioner to the petitioner within a time frame.



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For Petitioner : Mr.P.Mathurai Veeran
For Respondents : Mr.S.Vinayak,
Standing Counsel for R1 & R2
Mr.R.Prabu Ramachandran for R3

ORDER

The petitioner herein claiming to be the wife of one late Krishnamoorthy, who worked as Sanitary Supervisor in the respondent Corporation, filed the present Writ petition. The said late Krishnamoorthy while working as Sanitary Supervisor in the respondent Corporation, died on 21.06.2015. It is the case of the petitioner that her name was entered in the service register as nominee for pensionary benefits. But the respondent corporation has refused to pay the pensionary benefits and family pension etc., to the petitioner on the ground that the respondent No.3 herein has raised an objection.

2. It is the case of the respondent No.3 that petitioner is a divorced wife of the deceased late Krishnamoorthy and respondent No.3 is the second wife and having three minor children and she and her children are entitled to



succeed to the retirement and death benefit of the late Krishnamoorthy. The respondent Corporation having considered the rival claim, made by the petitioner and the respondent No.3, passed the impugned order in proceedings dated 24.06.2020 requiring the petitioner and respondent No.3 to work out their remedies before the competent Court and then to approach for payment of retirement benefits. Aggrieved by the said proceedings dated 24.06.2020, the petitioner approached this Court by filing the present Writ Petition.

3. Admittedly, as on date, neither the petitioner nor the respondent No.3 initiated any succession proceedings though both the petitioner and the respondent No.3 are having a legal heir certificate showing themselves as legal heirs of deceased late Krishnamoorthy. In the circumstances, it is not within the purview of respondent Corporation to adjudicate as to who is the genuine legal heir of late Krishnamoorthy. In the circumstances, the impugned order passed by the second respondent is perfectly valid, wherein the petitioner and respondent No.3 are required to work out their remedies before the appropriate forum. This Court does not find any error or illegality in the impugned order passed by the second respondent.



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4. Hence, this Writ Petition is dismissed leaving it open to the petitioner and respondent No.3 to work out their remedies by filing appropriate succession OP under the provisions of Indian Succession Act, 1925 or otherwise.

5. The learned counsel for the third respondent is also seriously contended that the name of the husband of the respondent No.3 is erroneously mentioned in the cause title of this Writ Petition and some third party name has been shown as her husband. As this court is not inclined to enter into the merits of the case, all the issues are left open. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.03.2024

NCC : Yes/No

Index : Yes/No

vsm



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MUMMINENI SUDHEER KUMAR, J.

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