



W.P.(MD)No.6915 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.6915 of 2024

K.Sekar

... Petitioner

Vs.

- 1.The Registrar,
Consumer Co-operative Society,
No.170, EVR Mel Road,
Keelapakkam,
Chennai – 600 010.
- 2.The District Collector,
Madurai District,
Madurai.
- 3.The Deputy Registrar,
Co-operative Societies,
Consumer Co-operative,
Madurai.
- 4.The Joint Registrar / General Manager,
A.1437, Madurai District Pandiyan Consumer
Cooperative Wholesales Stores Limited,
No.216, B.P.Chavadi,
Mudakkusalai,
Madurai – 625 016.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fourth respondent in Na.Ka.No. 01/2015/Pa.Tho.1 dated 22.12.2023 and quash the same as illegal and consequently direct the respondents to grant family pensionary benefits and other eligible benefits on the death of the petitioner's wife Mrs.Anandhi on 05.10.2021 while in service.

For Petitioner : Mr.S.Vikram

For R-1 to R-3 : Mr.M.Senthil Ayyanar
Government Advocate

For R-4 : Mr.D.Shanmugaraja Sethupathy

ORDER

Heard Mr.S.Vikram, learned counsel for the petitioner, Mr.M.Senthil Ayyanar, learned Government Advocate appearing for the respondents 1 to 3 and Mr.D.Shanmugaraja Sethupathy, learned counsel appearing for the fourth respondent.

2. This Writ Petition has been filed seeking to quash the order dated 22.12.2023 passed by the fourth respondent and consequently direct the



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respondents to grant family pensionary benefits and other eligible benefits on the death of the petitioner's wife Mrs.Anandhi on 05.10.2021 while she was in service.

3. The petitioner married one Vijayarani in the year 1990 and they have two children and thereafter they got separated. While so, the petitioner married another woman viz., Anandhi, who was working as a builder in the fourth respondent Society, since 2011. The said Anandhi customarily adopted the petitioner's children as her legal heirs and no children were born to the said Anandhi and the petitioner. On 05.10.2021, the said Anandhi died due to her ill health. The petitioner claims that himself and his children performed the final rites of the deceased Ananthi and they are her only legal heirs. He also claims that they are entitled to get the terminal benefits of the deceased Anandhi. In this regard, the petitioner preferred a representation dated 11.10.2022 requesting the respondents to grant pensionary benefits and provide job on compassionate ground for his children. Since the representation submitted by the petitioner was not favourably considered, the present writ petition is filed.

4. Mr.M.Senthil Ayyanar, learned Government Advocate for the respondents 1 to 3 submitted that the marriage between the petitioner and the



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said Anandhi itself is illegal, as he had performed the marriage during the life time of his first wife and also without getting divorce from the first wife.

Earlier, the petitioner had filed Writ Petition in W.P.(MD).No.27340 of 2023 seeking to consider the representation of the petitioner for disbursing the pensionary benefits and other eligible benefits of the deceased Anandhi and this Court vide its order dated 17.11.2023 passed an order directing the respondents to disburse the terminal benefits. As against the same, the fourth respondent had preferred a Writ Appeal in W.A.(MD).No.318 of 2024 and an order of interim stay has been granted by this Court in CMP.(MD).No.2944 of 2024 dated 11.03.2024. Despite the stay order, the petitioner claims that he is entitled to get the terminal benefits.

5. Mr.D.Shanmugaraja Sethupathy, learned counsel for the fourth respondent submitted that the impugned order dated 22.12.2023 passed on merits stating that the petitioner's children cannot be considered as legal heirs of Anandhi. The main reason for rejecting the petitioner's request is that he had married Anandhi during the life time of Vijayarani and also without getting divorce from his first wife.



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6. However, the learned counsel for the petitioner submitted that the marriage between himself and Vijayarani is dissolved by entering into an agreement between themselves. The petitioner believes that he himself and his two children are the rightful legal heirs of the said Anandhi.

7. Considering the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents, this Court is of the view that the factual aspects of this case have to be dealt only by the Trial Court by way of filing a suit to declare the status of the petitioner and his children. Without agitating the matter in the above manner, the petitioner has filed this writ petition challenging the impugned order dated 22.12.2023, which is a misconceived one.

8. With the above observations, this Writ Petition is dismissed. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

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