



W.P(MD)No.12195 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.12195 of 2020

and

W.M.P.(MD)Nos.10474 & 10475 of 2020

B.Chinnaponnu

... Petitioner

**Vs.**

1.The Sub Collector,  
Thoothukudi District,  
Thoothukudi.

2.The Tahsildar,  
Srivaikundam Taluk,  
Thoothukudi District.

3.Mookkamal

(R3 is impleaded vide order dated 03.01.2024  
in W.M.P.(MD)No.16751 of 2022)

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records and quash the order of the first respondent in Mu.Mu.A2/3418/2019, dated confirm the legal heir certificate of the petitioner in Pa.Mu. (Aa2)/2894/2018, dated 31.05.2018 within a stipulated period by this Court.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.T.Villavan Kothai  
Additional Government Pleader for R1 & R2

: Mrs.Porkodi Karnan for R3



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## ORDER

Heard both sides.

2. One Balasubramanian was working in the Fire Service Department. He died while in harness. The petitioner as well as the third respondent claimed the status of the wife. Originally, the third respondent was given the legal heir certificate in which her status as wife was recognized. Challenging the same, the petitioner moved the District Collector, Thoothukudi. The District Collector, Thoothukudi cancelled the certificate issued in favour of the third respondent. Thereafter, the petitioner applied for legal heir certificate and obtained one in her favour. This was questioned by the third respondent. Acting on her complaint, the first respondent issued the impugned communication dated 31.12.2019 calling upon the petitioner to surrender the legal heir certificate issued to her. Challenging the same, this writ petition came to be filed.

3. This Court granted interim order in favour of the petitioner. Thereafter, the petitioner filed O.S.No.172 of 2021 on the file of the District Munsif Court, Srivaikundam to establish her claim. The third respondent is



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figuring as defendant in the said suit. In matters such as this, the jurisdictional civil Court alone can adjudicate. The authority cannot decide who get married first. Admittedly, Balasubramanian was twice married. Therefore, I decline to interfere with the impugned order. The petitioner is at liberty to work out her rights in the pending suit. The defences of the third respondent are left open. I have not gone into the merits of the matter. The Writ Petition is dismissed.

4. At the same time, equity obtaining in this case cannot be lose sight of. The third respondent is working as a staff nurse. The petitioner is not in any gainful employment. Through the petitioner, two children were born. Through the third respondent, one girl child was born. The girl child born through the third respondent is still remaining unmarried. Therefore, the pensionary benefits are being shared equally between the petitioner on the one hand and the unmarried daughter of the third respondent. This arrangement shall continue till the suit is disposed of. In other words, the dismissal of this writ petition will not result in stoppage of pension. The petitioner will continue to get 50% of the pension, while the daughter of the third respondent will get remaining 50 % so long as she is remaining unmarried. If the daughter of the third respondent gets married, the petitioner will get full pension. But it is only an interim arrangement. It all depends on the outcome of the suit. The rights of



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the petitioner as well as the third respondent will abide by the outcome of O.S.No.172 of 2021 on the file of the District Munsif Court, Srivaikundam. No costs. Consequently, connected miscellaneous petitions are closed.

**18.01.2024**

Index : Yes / No  
Internet : Yes/ No  
rmi

To

1.The Sub Collector,  
Thoothukudi District,  
Thoothukudi.

2.The Tahsildar,  
Srivaikundam Taluk,  
Thoothukudi District.



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**G.R.SWAMINATHAN, J.**

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18.01.2024