



W.A.(MD)No.1020 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.A.(MD)No.1020 of 2024

Sundaravalli

... Appellant

-Vs-

1.The Tahsildar,
Egmore Taluk, Chennai District.

2.The Tahsildar,
Aruppukkottai Taluk,
Virudhunagar District.

3.The Regional Manager,
Canara Bank, Regional Office South,
563/1, Annasalai, Teynampet,
Chennai-600 040.

4.The Branch Manager,
Canara Bank, Triplecane Branch,
Chennai.

5.P.J.Lakshmi

6.P.S.Venkataraman

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 22.03.2024 made in W.P.(MD)No.7018 of 2021 on the file of this Court.

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For Appellant : Mr.S.Balamurugan
For R1 & R2 : Mr.A.Kannan,
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by *R.SURESH KUMAR, J.*]

This Writ Appeal has been directed against the order dated 22.03.2024 made in W.P.(MD)No.7018 of 2021.

2. There has been a dispute between the appellant / writ petitioner and the private respondents herein, who stood as respondents 5 and 6 in the Writ Petition, with regard to the legal heirship of the deceased, namely, Krishnan, who was working as Superintending Engineer in Tamil Nadu Electricity Board and died after retirement. However, the death-cum-retirement benefits payable to the deceased Officer, have not been disbursed so far. In order to get the said benefits, there is a fight between the appellant / writ petitioner and the private respondents.

3. It is the claim of the appellant / writ petitioner that she is being the sister of the deceased, she is the only legal heir and the deceased is a bachelor till his death, whereas it is the claim of the respondents 5 and 6 that they are the legal



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heirs of the deceased and the 5th respondent is the legally wedded wife of the deceased and the 6th respondent is the son of the deceased.

4.Enquiry has been conducted by the 2nd respondent and he had issued legal heir certificate as well as No Objection Certificate in favour of the private respondents to claim the benefits arising out of the death of the employee.

5.When that was questioned, the learned Single Judge, who passed the order, which is impugned herein dated 22.03.2024, has found that the authorities, after satisfying with the existence of the *prima facie* case that the 5th respondent is the wife of the deceased and the 6th respondent is the son of the deceased, have decided to issue legal heir certificate.

6.As against the said communication, no appeal had been filed. In the meanwhile, the learned Single Judge also in the impugned order has made it very clear that if at all the legal heirship in favour of the petitioner is to be established, she has to approach the civil Court and secure the declaratory decree to declare herself as the only legal heir of the deceased and not the private respondents.



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7.Despite this order passed by the learned Single Judge, it is assailed here by filing the present appeal by the appellant / writ petitioner

8.Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents 1 and 2.

9.In view of the order, that is going to be passed in this Writ Appeal, notice to other respondents herein is dispensed with.

10.Insofar as the finding, that has been given by the learned Single Judge in the order impugned, as well as the conclusion reached by him, is concerned, we do not find any error in such an approach and conclusion. Therefore, this Writ Appeal is liable to be rejected.

11.However, the learned counsel for the appellant would submit that even if the appellant approaches the civil Court to seek declaratory decree as directed by the learned Single Judge in the order impugned, the civil Court cannot be influenced by any of the finding that has been given by the learned Single Judge in the order impugned. Therefore, if that is ensured, the appellant would approach the civil Court for appropriate remedy.



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12. In view of the said submission made by the learned counsel for the appellant, this Court is inclined to pass the following order:-

“(i) that the order passed by the learned Single Judge dated 22.03.2024, which is impugned herein, is sustained and therefore, this Writ Appeal fails;

(ii) As directed by the learned Single Judge, it is open to the appellant to approach the civil Court to seek appropriate remedy; and

(iii) If any such attempt is made, where the civil suit is filed, the same shall be tried and decided by the civil Court on merits and in accordance with law, based on the evidence let in by both sides, where the finding that has been given by the learned Single Judge in the order impugned, shall not stand in the way.”

13. With these observations, this Writ Appeal is dismissed. No costs.

[R.S.K., J.] & [G.A.M., J.]
18.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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AND

G.ARUL MURUGAN, J.

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To

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Aruppukkottai Taluk,
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