

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak**

And

**The Hon'ble Justice Md. Shabbar Rashidi**

**M.A.T. 1011 of 2025**

**IA NO: CAN/1/2025**

**Momotaj Begam**

**vs.**

**The State of West Bengal & ors.**

|                            |   |                                                                                                  |
|----------------------------|---|--------------------------------------------------------------------------------------------------|
| For the Appellant          | : | Mr. Mujibar Ali Naskar, Advocate<br>Mr. S. Halder, Advocate                                      |
| For the State              | : | Mr. Jayanta Samanta, Jr. Govt. Advocate<br>Kazi Sajjad Alam, Advocate                            |
| For the Respondent<br>No.8 | : | Mr. Sanjib K. Mukhopadhyay, Advocate<br>Ms. Nargish Parveen, Advocate<br>Ms. Parna Ray, Advocate |
| For the Respondent<br>No.9 | : | Mr. Aniruddha Datta, Advocate                                                                    |
| Heard & Judgment on        | : | 14.08.2025                                                                                       |

**DEBANGSU BASAK, J.:-**

1. Appeal is at the behest of the writ petitioner and directed against an order dated July 2, 2025 passed in WPA No.29297 of 2024.
2. In the impugned order, learned Single Judge, noticing that, there were disputes with regard to the marriage between the deceased and

a lady, and that the claim for terminal benefits of the deceased revolved around such disputes, dismissed the writ petition,

3. Learned advocate appearing for the appellant submits that, the appellant is the mother of the deceased. He submits that, the deceased was employed with the Indian Army. Deceased expired while in service. Appellant as the mother of the deceased, therefore, became entitled to the terminal benefits of the deceased.
4. Learned advocate appearing for the appellant submits that, the disbursement of the terminal benefits of the deceased was withheld by the army officials on the specious plea of marriage between the deceased and the private respondent herein. He submits that, the marriage certificate on the basis of which, the private respondent is claiming marriage with the deceased is a nullity as it is not in accordance with the law.
5. Learned advocate appearing for the marriage registrar submits that, the appellant and her husband filed a Civil Suit being O.S. 21 of 2024 in the Court of Learned Civil Judge, Junior Division, 1<sup>st</sup> Court at Kandi, Murshidabad claiming declaration that, the private respondent is not entitled to claim herself as the widow of the deceased and for permanent injunction. He submits that, the suit is pending.

6. Learned advocate appearing of the Marriage Registrar submits that, the factum of filing of such Civil Suit prior to the filing of the writ petition was suppressed before the learned Single Judge.
7. State and the person who claims to be the wife of the victim are represented.
8. We find from the records that, the deceased expired on September 15, 2024. The respondent no.9 in the present appeal claims herself to be the widow of such victim.
9. Issues cropped up as to the receipt of the terminal benefits of the victim. Appellant before us is the mother of the victim. Appellant alongwith her husband, filed a Civil Suit being O.S. 21 of 2024 before the Learned Civil Judge, Junior Division, 1<sup>st</sup> Court at Kandi, Murshidabad.
10. Respondent no.9 is the party respondent in such suit.
11. Prayers in the Civil Suit are as follows:-

*“A. That defendant is not widow of deceased of Monsur Sultan.*

*B. That Plaintiff also pray for permanent decree of injunction against defendant so that she cannot claim to get any service benefit as widow of Monsur Sultan as widow of deceased of Monsur Sultan.*

*C. Any other relief or reliefs granted by honorable court as he will deem fit and proper.”*

12. Prayers in the writ petition are as follows:-

*“A) Dispense with Rule 26 of the Writ Rules;*

*B) Issue a writ of or in the nature of Mandamus commanding the respondents concerned and their men, agents and servants, more particularly respondent no.3 to cancel the registration of marriage between the petitioner’s son and the respondent no.9, forthwith;*

*C) Issue a writ of or in the nature of Mandamus directing the respondent no.3 to cancel the Marriage Certificate dated 04.03.2024 issued by the respondent no.8, forthwith;*

*D) Issue a writ of or in the nature of Mandamus directing the respondent nos.2 and 3 to recall/cancel/rescind the report submitted by the respondent no.3 vide letter being Memo. No.1752/DR(MSD) dated 26.11.2024, forthwith;*

*E) Issue a writ of or in the nature of Mandamus directing the respondent nos. 4 to 7 to disburse the benefits of the deceased son of the petitioner to the petitioner, forthwith;*

*F) Issue a writ in the nature of Certiorari quashing and/or cancelling the Marriage Certificate dated 04.03.2024 issued by the respondent no.8 and report submitted by the respondent no.3 vide letter being Memo. No.1752/DR(MSD) dated 26.11.2024 and directing the respondents concerned, each one of them, their men, agents servants sub ordinates and/or assigns to produce the case records before the Hon’ble High Court for disposal of the case;*

*G) Issue Rule NISI in terms of prayers (B), (C), (D), (E) and (F) as above and to make the Rule absolute if no cause and/or insufficient cause is shown in reply thereto;*

*H) Issue an interim order directing respondent nos.2 and 3 to cancel the registration of marriage between the petitioner's son and the respondent no.9, to cancel the Marriage Certificate dated 04.03.2024 issued by the respondent no.8 and to recall/cancel/rescind the report submitted by the respondent no.3 vide letter being Memo. No.1752/DR(MSD) dated 26.11.2024, till disposal of the application;*

*I) Issue ad interim order in terms of prayer (H) as above;*

*J) Pass any order as to costs;*

*K) Pass such further and/or other order or orders, direction or directions as Your Lordships may deem fit and proper in the interest of justice, equity and good conscience;”*

13. The primary issue in both the civil suit as also in the writ petition is whether or not the respondent no.9 is the widow of the victim. In other words, whether, the respondent no.9 was validly married to the victim before his death or not.
14. Appellant as one of the plaintiffs put such issue for decision in a Civil Suit. Thereafter, she approached the Writ Court raising the same issue to be decided by a Writ Court.
15. Writ petition does not contain any averment with regard to the appellant filing the Civil Suit. In a subsequent interim application, the appellant disclosed the factum of filing the Civil Suit before the Writ Court.

16. Since, the primary issue as to the validity of the marriage is yet to be decided in the Civil Suit we find no infirmity in the order of the learned Single Judge in dismissing the Writ petition.
17. **MAT 1011 of 2025** alongwith connected application are **dismissed** without any order as to costs.

**(Debangsu Basak, J.)**

18. I agree.

**(Md. Shabbar Rashidi, J.)**