



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 744 of 2015

AND

M.P.No.1 of 2015 & CMP NO. 9397 OF 2017

1. Union Of India Rep By
Chief Secretary, Secretary To
Government, Government Of
Puducherry.

2.The Director Of Social Welfare
Department, Rep By Welfare Officer
Freedom Cell.

Appellants

Vs

Shagarwan Bivi

Respondent

PRAYER : Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the judgment and decree passed in A.S.No. 4 of 2014 dtd 28.08.2024 by the Principal Sub-Judge, Pondicherry granting the relief of mandatory injunction allowed the appeal by reversing the judgment and decree dated 21.10.2011 made in O.S.No. 1176 of 2007 by the I Addl. District Munsif Pondicherry.



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For Appellants: Mr.P.S.Kothandaraman
Govt.Advocate (p)

For Respondent: Mr. P.Sankaranarayanan

JUDGMENT

The appellants/Government of Puducherry, who are the defendants in the suit in O.S.No.1176 of 2007, challenging the reversal findings of the courts below rendered in A.S.No.4 of 2014 by the Principal Sub-Judge, Pondicherry arising out of trial court findings rendered in O.S.No.1176 of 2007 by the I Addl. District Munsif, Pondicherry, have preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the suit.

3. On perusal of records, it reveals that as per Ex.B4, during the life time of Abdullah Sahib/husband of respondent, he addressed a letter to the Chief Secretary, Government of Pondicherry stating that he had four wives and 4th wife name mentioned as Shagarwan Bivi, who is the respondent/plaintiff herein and in that letter dated 23.07.1999, he confessed that he had four wives and the respondent/plaintiff is his fourth wife. So, it is an undisputed fact that he belong



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to Muslim community, he is entitled to marry four wives and they are his legal heirs. But, as on date, it is understood that all the three wives died, thereby the

respondent/plaintiff is his only legal heir and as wife of Abdullah Saheeb, she is entitled to receive pension. Due to technical issues, the authorities concerned not inclined to pay pension to the respondent/plaintiff. However, the letter written by her husband was marked as Ex.B4 and the same was rightly appreciated by the first appellate court in para 11 reads as follows :-

“11. Needless to say the primary evidence such as Exhibits A2, A3 and A4 are sufficient to establish that the appellant/plaintiff wife of deceased Abdulla Sahib is eligible to get the freedom fighter pension. Strictly speaking, the object in granting the freedom fighters pension is only to honour the freedom fighters and to mitigate the suffering of those who had given everything to the country, by their supreme sacrifice. Above all, Abdullah Sahib received pension. Therefore, highlighted above on account of the timely service rendered by the plaintiff's late husband to our nation, she is entitled to receive the pension amount of her husband and thus the relief of mandatory injunction is granted as prayed for. For the aforesaid reasons, it is held that the trial court was not justified in dismissing the suit and thus the point is answered accordingly.”



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So, the findings rendered by the first appellate court needs no interference.

Accordingly, this Appeal is dismissed and the findings of first appellate court is confirmed, thus, suit is decreed. So, the appellants are directed to pay pension to the respondent/plaintiff within a period of eight weeks from the date of receipt of this judgment. Furthermore, by this time, she is aged about 85 years and she is at the fag end of her life, she is a pensioner and since her husband is a freedom fighter, he should be honoured by giving pension to his family members at the earliest point of time, besides, the appellants/defendants also directed to pay arrears of pension from the year of June 2006 onwards as per manner known to law. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1. Principal Sub-Judge, Pondicherry.
2. I Addl. District Munsif, Pondicherry.
3. Chief Secretary,
Union Of India, Secretary to Government,
Government Of Puducherry.
4. Welfare Officer Freedom Cell,
The Director Of Social Welfare Department, Pondicherry.
5. The Public Prosecutor, Pondicherry.
6. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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