



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 01.08.2025

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THE HONOURABLE MR.JUSTICE K. SURENDER

WP No. 31279 of 2016

B.Ananthalakshmi,
No.3/2, Dr.Srinivasan Street Extension,
Tirupathur, Vellore- 635 601

..... Petitioner(s)

Vs

1.Government of Tamil Nadu,
Rep by its Principal Secretary, Revenue
Department, Fort st. George, Chennai-600 009

2. Deputy Secretary to
Government, Revenue Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.

3. The Commissioner and
Director, Survey and Settlement Officer,
Chepauk, Chennai-600 005

4. The Senior Accounts Officer,
Office of the principal Accountant General (Accounts and Entitlements)
Tamil Nadu, 361, Anna Salai,
Chennai-600 018.

Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the concerned records from the 1st and 2nd respondents, quash the order of the 1st respondent in G.O.(1D) No.81, Revenue(Ni.A3(1) Department, dated 29.03.2012 and the order of the second respondent, dated 19.09.2013



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bearing Letter no.22702(Ni.A-3(1)/2013-1 as illegal, arbitrary and contrary to law and consequently, direct the respondents to grant family pension to the petitioner from 14.01.2010 being the date of death of her husband viz.,S.K.Balakrishnan along with arrears of pension and continue to pay family pension every month.

For Petitioner : M/s.Balan Haridas

For Respondents : Mr.Yashwanth, AGP for RR1 to 3
Mr.T.Selvarani, for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the concerned records from the 1st and 2nd respondents, quash the order of the 1st respondent in G.O.(1D) No.81, Revenue(Ni.A3(1) Department, dated 29.03.2012 and the order of the second respondent, dated 19.09.2013 bearing Letter no.22702(Ni.A-3(1)/2013-1 as illegal, arbitrary and contrary to law and consequently, direct the respondents to grant family pension to the petitioner from 14.01.2010 being the date of death of her husband viz.,S.K.Balakrishnan along with arrears of pension and continue to pay family pension every month.

2.The facts of the case are that the petitioner, now aged about 73 years, who is the second wife of the deceased S.K.Balakrishnan, has filed



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the present Writ Petition for grant of family pension. The said

S.K.Balakrishnan died on 14.01.2010. The application for family pension was made on 30.06.2010 with the concerned authority, who are the respondents herein. The said deceased S.K.Balakrishnan, during his life time, lastly worked as Assistant Director of Survey and Land Records, Vellore, and retired in the said capacity on 31.05.1994. He married one Rajammal and thereafter, he also married the petitioner herein on 15.05.1971. The said Rajammal gave birth to two sons and one daughter. The petitioner gave birth to two sons and one daughter. According to the petitioner, since at the time of her marriage on 15.05.1971, she was living with her husband and it was with the consent of the first wife.

3. A request was made for family pension on 30.06.2010, but it was rejected mainly on the ground that the petitioner is the second wife of the deceased S.K.Balakrishnan and her marriage was invalid in accordance with the provisions of the Hindu Marriage Act, 1955.

4.The learned counsel for the petitioner would submit that the marriage had taken place in the year 1971 and since then, they were living



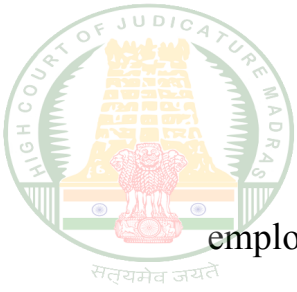
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together and the petitioner also gave birth to two sons and one daughter.

After the death of the first wife on 13.11.1988 also, the petitioner continued to live along with her husband till his death on 14.01.2010. The learned counsel argues that the Hon'ble Supreme Court in the case of “***Dhannulal and Others Vs. Ganeshram and Another***” reported in (ILC-2015-SC-civil), held that the continuous cohabitation of the petitioner with the deceased husband is enough to presume marriage. The learned counsel also relied on the order of this Court in WP No.34952 of 2019 in the case of “***C.Sarojini Devi Vs. The Director of Local Fund Audits, Chennai and 2 Others***”.

5.The learned counsel appearing for the respondents 1 to 3 and 4 have stressed mainly on the ground that the petitioner was married during the subsistence of the marriage with the first wife and in accordance with the Hindu Marriage Act, 1955, the marriage is void and as such, the question of granting the family pension to the petitioner whose marriage is void, does not arise.

6. Having considered the rival arguments, it is not disputed by the learned counsel for the respondents that the petitioner married the deceased



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employee in May, 1971 and she was blessed with two sons and one daughter. Further, it is not disputed that she was living along with her husband till the date of his death i.e., on 14.01.2010.

7.The Hon'ble Supreme Court in ***Dhannulal*** case (cited supra), has held that long cohabitation between a man and woman raises a strong presumption in favour of their marriage. Admittedly, the petitioner, all along has been living with her husband from the year 1971 when her marriage had taken place, till the death of her husband on 14.01.2010. The first wife of the deceased S.K.Balakrishnan died on 13.11.1988. Even after the death of the first wife, nearly for 22 years, the petitioner and her deceased husband were living together.

8.The legal heirs of the deceased S.K.Balakrishnan, have approached the Tahsildar, Thirupattur, Vellore District for the Legal heirship Certificate. The Tahsildar, Thirupattur has issued the Legal heirship Certificate dated 11.06.2010, in which, the petitioner is shown at Serial no.4 as the legal heir. The said Certificate is not disputed by the respondents.



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9. On questioning, the learned counsel for the respondents 1 to 3 would submit that an application can be made by any of the legal heirs of the deceased S.K.Balakrishnan, who are shown in the Legal heirship Certificate for family pension.

10. In the present facts of the case, when the petitioner was continuously living along with her husband and gave birth to three children and cohabiting for a long period of time, is enough to consider her request for family pension. As the Hon'ble Supreme Court has observed in *Dhannulal's* case cited supra, the Law presumes in favour of marriage when a man and woman cohabit continuously for a long period of time. Admittedly, the petitioner was living with her deceased husband from the year 1971 and also after the death of the first wife in the year 1988. The ground raised by the learned counsel for the respondents that it is not a valid marriage in accordance with the provisions of the Hindu Marriage Act, 1955 and that the writ petitioner is not entitled for family pension, cannot be sustained in the present facts of the case. Therefore, the respondents are directed to disburse the family pension along with arrears, to the petitioner, to which she is entitled to, within a period of eight(8) weeks from the date of



receipt of a copy of this order.

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11. With the above direction, this Writ Petition is allowed. No costs.

(K. SURENDER, J.)

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Index : Yes/No

Speaking order: Yes/No

To

1. The Government of Tamil Nadu,
Rep by its Principal Secretary, Revenue
Department, Fort St. George, Chennai-600 009

2. Deputy Secretary to
Government, Revenue Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.

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