

Pushpalatha C Vs. The Tahsildar

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Court : Kerala

Decided On : Mar-11-2015

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : Pushpalatha C

Respondent : The Tahsildar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE TUESDAY, THE 11TH DAY OF APRIL 2014 11TH CHAITHRA, 1936 WP(C).No. 9465 of 2014 (G)

----- PETITIONER(S): ----- PUSHPALATHA. C., P & T QUARTERS, THIRUMULLAVARAM, KOLLAM-12. BY DR.K.P.SATHEESAN, SENIOR ADVOCATE. ADVS. SRI.M.R.JAYAPRASAD, SRI.P.MOHANDAS (ERNAKULAM), SRI.ANOOP.V.NAIR, SRI.S.VIBHEESHANAN. RESPONDENT(S): ----- 1. THE TAHSILDAR, TALUK OFFICE, KUNNATHOOR TALUK, SASTHAMCOTTA, KOLLAM DISTRICT-690 521.

2. THE ASSISTANT GENERAL MANAGER (ADMINISTRATION), OFFICE OF THE GENERAL MANAGER, BHARAT SANCHAR NIGAM LTD., TELECOM DISTRICT, KOLLAM-691 001.

3. RADHAMMA, RADHA MANDIRAM, MYNAGAPPALLY P.O., KOLLAM-690 519.

4. MADHAVANKUTTY PILLAI, KATTUVILAYIL HOUSE, MYNAGAPPALLY P.O., KOLLAM-690 519.
5. SUMANGALAYAMMA, KATTUVILAYIL HOUSE, MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O., KOLLAM-690 519.
6. APPUKUTTAN PILLAI, HAREESH BHAVAN, MYNAGAPPALLY P.O., KOLLAM-690 519.
7. MANIAMMA, KATTUVILAYIL HOUSE, MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O., KOLLAM-690 519.
8. REGHUNATHAN PILLAI, KATTUVILAYIL HOUSE, MYNAGAPPALLY SOUTH, MYNAGAPPALLY P.O., KOLLAM-690 519. R1 BY GOVT.PLEADER SMT.C.K. SHERIN. R2 BY ADVS. SRI.V.V.SURESH, SC, BSNL. SRI.MATHEWS K.PHILIP, SC, BSNL. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0104-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. WP(C).No. 9465 of 2014 (G) APPENDIX PETITIONER'S EXHIBITS:- EXT.P1 COPY OF THE WEDDING INVITATION LETTER SHOWING THE MARRIAGE OF THE PETITIONER DATED0611/2008. EXT.P2 COPY OF THE MARRIAGE 'PATHRIKA' ISSUED BY S.N.D.P. BRANCH SECRETARY, KUNDARA DATED0106/2008. EXT.P3 COPY OF THE INTIMATION LETTER ISSUED BY THE MEMBERS OF THE FAMILY OF BHADRAN PILLAI DATED3003/2009. EXT.P4 COPY OF THE DEATH CERTIFICATE ISSUED BY THE CORPORATION OF KOCHI REGARDING THE DEATH OF THE PETITIONER'S HUSBAND BHADRAN PILLAI ON1306/2011. EXT.P5 COPY OF THE LETTER GIVEN BY THE2D RESPONDENT DATED1307/2011. EXT.P6 COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED1708/2011. EXT.P7 COPY OF THE CERTIFICATE ISSUED BY THE PRESIDENT, EAST KALLADA GRAMA PANCHAYAT DATED2406/2011. EXT.P8 COPY OF THE MARRIAGE CERTIFICATE ISSUED BY S.N.D.P.YOGAM, EAST KALLADA BRANCH DATED2407/2011. EXT.P9 COPY OF THE LETTER NO.A3-13004/11 DATED0712/2011 GIVEN BY THE FIRST RESPONDENT. EXT.P10 COPY OF THE

JUDGMENT

DATED0407/2012 IN WP(C).NO. 1628/2012. EXT.P11 COPY OF THE STATEMENT WRITTEN BY THE OFFICE STAFF OF THE FIRST RESPONDENT DATED1308/2012. EXT.P12 COPY OF THE

ORDER

NO.A3-13004/2011 DATED1408/2012 PASSED BY THE FIRST RESPONDENT. EXT.P13 COPY OF THE

ORDER

NO.B1-520/2013/K.DIS. DATED1901/2013 ISSUED BY THE DISTRICT MARRIAGE REGISTRAR GENERAL AND PANCHAYAT DEPUTY DIRECTOR, KOLLAM. EXT.P14 COPY OF THE CERTIFICATE OF MARRIAGE ISSUED BY THE SECRETARY, EAST KALLADA GRAMA PANCHAYAT (LOCAL REGISTRAR) DATED1901/2013. EXT.P15 COPY OF THE

JUDGMENT

DATED2901/2013 IN WP(C).NO. 23646/2012. EXT.P16 COPY OF THE PROCEEDINGS OF THE FIRST RESPONDENT NO.A3-13004/11 DATED2103/2013.2/- WP(C).No. 9465 of 2014 (G) EXT.P17 COPY OF THE SUCCESSION O.P. NO. 4/2013 FILED BY THE RESPONDENTS3TO7BEFORE THE MUNSIFF COURT, SASTHAMCOTTA. EXT.P18 COPY OF THE

JUDGMENT

DATED1501/2014 IN WP(C).NO. 12033/2013. EXT.P19 COPY OF THE COMMUNICATION RECEIVED BY THE PETITIONER FROM THE2D RESPONDENT DATED0602/2014. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. A.M.SHAFFIQUE, J * * * * * W.P.C.No.9465 of 2014 ----- Dated this the 1st day of April 2014

JUDGMENT

Petitioner has approached this Court complaining that though the 1st respondent had come to a conclusion that the petitioner is the legally wedded wife of deceased Bhadran Pillai, so far the legal heir certificate is not issued. The

certificate is required for the purpose of producing it before Bharat Sanchar Nigam Limited for getting family pension and employment assistance.

2. The facts involved in the above writ petition would disclose that there was some dispute raised by respondents 3 to 8 regarding the validity of the marriage certificate produced by the petitioner before the Tahsildar claiming that she is also a legal heir of the deceased. An enquiry was conducted by the Tahsildar and by Ext.P16 Tahsildar formed an opinion that the petitioner is the legally wedded wife of the deceased. While conducting the enquiry, all the parties W.P.C.No.9465/2013 2 including the party respondents herein were also heard. The said order came to be challenged by the party respondents before this Court in W.P.C.No.12033/2013.

3. During the pendency of the above writ petition, there was a stay of Ext.P16, but the stay was vacated since the party respondents have filed Succession O.P.No.4/2013 before the Munsiff's Court, Sasthamkotta. Apparently, the claim of the party respondents is to be decided in the said original petition wherein their claim is with reference to 5/6 share of the retirement benefits of the deceased. Petitioner is the 2nd respondent in the said original petition. Hence W.P.C.No.12033/2013 was dismissed as withdrawn.

4. According to the petitioner, despite producing Ext.P18 judgment in W.P.C.No.12033/2013, the Tahsildar is not issuing legal heir certificate on the ground that O.P.No.4/2013 is pending before the civil court.

5. Learned Government Pleader submits that since the original petition is pending before the Civil court, the W.P.C.No.9465/2013 3 Tahsildar cannot issue the legal heir certificate without making any further enquiry into the matter.

6. Learned Standing Counsel appearing on behalf of BSNL would submit that he is not a necessary party to the above writ petition as family pension could be paid to the petitioner only if she is able to produce the legal heir certificate indicating that she is the legally wedded wife of the deceased.

7. On account of the nature of contentions raised in the above writ petition, I do not think that notice is required to be issued to the party respondents. In so far as the Tahsildar had already come to a conclusion in Ext.P16 that the petitioner is the legally wedded wife of the deceased and there is no challenge to Ext.P16, as matters stand today, there is no reason for the Tahsildar to desist from issuing the said certificate to the petitioner on account of the pendency of the original petition before the Munsiff Court, Sasthamkotta. In the said original petition, the claim is only W.P.C.No.9465/2013 4 for 5/6 share of the retirement benefits and there is no order from the civil court, restraining the grant of legal heir certificate. If the party respondents are entitled for any such benefit, they have to take appropriate orders from the Civil Court. Under these circumstances, this writ petition is disposed of as under: The first respondent shall issue the legal heir certificate to the petitioner pursuant to Ext.P16 without reference to the pendency of the Succession O.P No.4/2013 pending before the Munsiff's Court, Sasthamkotta. It shall be done within a period of one month from the date of receipt of a copy of this judgment. (sd/-) (A.M.SHAFIQUE, JUDGE) jsr W.P.C.No.9465/2013 5

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