
(1998) 10 MAD CK 0113

In the Madras High Court

Case No : Writ Petition No. 8744 of 1998 and W.M.P. No. 13298 of 1998

G. Ganthimathi @ Gandhi

APPELLANT

Vs

The superintending Engineer, Purchase and Administration,
Ennore, and Thermal Power Station, Ennore, Chennai - 57

RESPONDENT

Date of Decision : 09-10-1998

Acts Referred:

Citation : (1998) 10 MAD CK 0113

Hon'ble Judges : K. Sampath, J

Bench : Single Bench

Advocate : D. Simon, for the Appellant; A.N. Sivaprakasam, for the Respondent

Final Decision : Allowed

Judgement

Mr. K. Sampath, J.—The prayer in the writ petition is for a direction to the respondent to settle the terminal benefits of Mr. M. Gopal, Token No. 2290 of Operation Division in petitioner's favour as per the decree passed by the learned District Munsif Court, Ambattur in O.S. No. 44 of 1996 dated 20.1.1998. The grievance of the writ petitioner is that she had obtained a decree from a competent Court namely the District Munsif Court, Ambattur declaring herself as the legally wedded wife of late Mr. M. Gopal and that the decree had been obtained after imp leading two rival claimants who however remained ex parte. Notwithstanding such a decree having been obtained and forwarded to him, the respondent is insisting on the production of a Succession Certificate to enable him to disburse the terminal benefits of Thiru M. Gopal.

2. In the counter affidavit filed by the respondent though it is stated that there is a declaration granted by the Civil Court, still since there is no direction given to the respondent to pay the terminal benefits to the writ petitioner, unless Succession Certificate is produced, the respondent would not be in a position to disburse the terminal benefits of Thiru M. Gopal to the writ petitioner.

3. There is a valid decree granted by a Court of competent jurisdiction declaring

that the writ petitioner is the legally wedded wife of the deceased Gopal and that she is the only heir of the said Gopal. The decree is dated 20.1.98. Two other rival claimants Saroja and G. Azhagumani were impleaded as parties. No doubt, they remained ex parte. However, that by itself does not detract from the effectiveness of the decree which it should be assumed had been passed after following the procedure with regard to the service of notice on the parties.

4. After obtaining the decree, the writ petitioner addressed a representation to the respondent enclosing the decree and notwithstanding the same, the respondent had insisted on production of a Succession Certificate to enable him to make payment. I am clearly of the view that the stand taken is the respondent is unsustainable and wholly unwarranted in the circumstances of the case. When once the rival claimants are out of the picture and there is a decree of court declaring the petitioner as the legally wedded wife and the sole legal heir of the deceased the authority is not at all justified in refuse to disburse the terminal benefits. He cannot insist on production of anything further. (sic) has to act on the decree of the Court. In the circumstances, the contention (sic) the respondent is rejected. A direction will be issued to the respondent to consider and pass orders on the request of the writ petitioner (sic) settle the terminal benefits of late Thin M. Gopal within a period of three months from the date of receipt or production of a copy of the order of writ petition. The writ petition is allowed. No costs. Consequent W.M.P. No. 13298 of 1998 is closed.