

(2023) 11 MEG CK 0046

Meghalaya High Court At Shillong**Case No:** Writ Petition (C) No. 50 Of 2023

Bina Roy A. Sangma

APPELLANT

Vs

State Of Meghalaya & 3 Ors

RESPONDENT

Date of Decision: Nov. 21, 2023**Hon'ble Judges:** H.S. Thangkhiew, J**Bench:** Single Bench**Advocate:** L.D. Sangma, T. Yangkyi, I. Lyngwa, R. Pahsyntiew, Philemon Nongbri, P.T. Sangma**Final Decision:** Disposed Of

Judgement

H. S. Thangkhiew, J

1. The case of the petitioner is that she is the legally wedded wife of one (L) Atul C. Marak, who expired on 13.03.2022, but that before she could approach the respondent No. 3, for the issuance of Death Certificate in her favour, the respondent No. 5 who also claimed to be the wife of (L) Atul C. Marak, obtained Death Certificate on 24.03.2022. It has been submitted that the petitioner had then approached the respondent No. 3, and also filed a representation on 17.11.2022, for issuance of a fresh Death Certificate, showing her as the wife of the deceased person, but the concerned authority has not decided on the representation and directed that appropriate orders be obtained from the concerned Court. Being aggrieved thereby, the writ petitioner is before this Court by way of the instant writ petition.

2. Ms. L.D. Sangma, learned counsel for the petitioner has submitted that the petitioner was married to (L) Atul C. Marak, as far back as on 07.02.1976, and has referred to a Marriage Certificate to substantiate the submissions. She further submits that the grant of the Death Certificate to the respondent No. 5 is irregular, inasmuch as, no proper enquiry was conducted by the authority before granting the same, and as such, there should be no impediment to the respondent No. 3, for granting a fresh certificate in favour of the petitioner.

3. Mr. P.T. Sangma, learned counsel for the respondent No. 5, in reply to the submissions of the writ petitioner, has submitted that the respondent No. 5 was legally married to (L) Atul C. Marak, and has also annexed a copy of a Marriage Certificate to the affidavit-in-opposition to substantiate this argument. It has been further submitted that the petitioner was no longer cohabiting with the deceased person for the last 20 years and had never taken care or looked after him till his death. He therefore submits that the writ petitioner having deserted (L) Atul C. Marak for over 20 years, the prayer for issuance of a Death Certificate in her favour is liable to be rejected.

4. Having heard the learned counsel for the parties, it is seen that both the claimants who have stated that they are the legally wedded wives of (L) Atul C. Marak, are in possession of respective Marriage Certificates, the veracity of which cannot be determined by this Court as to their authenticity. The other attendant facts and circumstances such as, whether the writ petitioner and the deceased person were cohabiting or whether continued their life as husband and wife, also is in the realm of disputed facts, which this Court sitting in writ jurisdiction is not in a position to adjudicate.

5. In that view of the matter, without expressing any views, or going into the merits of the matter, this writ petition is disposed of leaving the writ petitioner to seek alternative civil remedy to establish her right as claimed, to be the legally wedded wife of (L) Atul C. Marak.

6. Matter accordingly stands closed and disposed of.