

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32645 of 2014

And

M.P.No.1 of 2014

Mrs.K.Selvi

... Petitioner

Vs.

1.The District Collector,
Collector office compound,
Salem - 636 001.

2.The Revenue Divisional Officer
Revenue Division Office
Collector office compound,
Salem - 636 001.

3.The Thasildhar,
Thasildhar Office,
Vazhapadi,
Salem District.

4.Mrs.Saraswathi

.... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of mandamus directing the respondents 1-3 to cancel the forged Legal heirship certificate Na.Mu.5577/2005/A-1 dated 19.06.2006 standing in the name of the 4th respondent and consequently direct them to issue legal heir ship certificate of the deceased Mr.R.Shanmugasundaram in favour of the petitioner herein based on the petitioner's representation dated 13.11.2014.

For Petitioner : Mr.M.Vijay Anand
for M/s.Sree Sun Associates

For Respondents : Mr.V.Jayaprakash Narayanan
for R1 to R3
Special Government Pleader
Mr.R.Thamaraiselvan R4

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2.The petitioner seeks for issuance of Writ of Mandamus to cancel the forged Legal Heirship Certificate dated 19.06.2006 and direct the respondents to issue Legal Heirship Certificate of the deceased Shanmugasundaram in favour of the petitioner herein.

3.There is dispute between the petitioner and the fourth respondent as to who is the lawfully wedded wife of the deceased Shanmugasundaram. The third respondent issued Legal Heirship Certificate in favour of the fourth respondent on 19.06.2006 stating that she is the only Legal Heir of the late Shanmugasundaram, which is according to the petitioner was without knowledge to the petitioner and therefore, she filed a petition before the District Collector who in turn forwarded the same to the Revenue Divisional Officer, Salem to conduct enquiry.

4.The Revenue Divisional Officer sent his report dated 22.12.2006 to the District Collector stating that there is dispute as regards who is the lawfully wedded wife of the late Shanmugasundaram. While receiving such a report, the first respondent also rendered a finding stating that in the light of the dispute, it is incorrect to issue Certificate certifying the fourth respondent as the sole Legal Heir of late Shanmugasundaram. However, this part of the finding rendered by the first respondent has not been challenged by the fourth respondent. With these facts, the matter was pending before the District Collector and the petitioner has approached this Court to scrub the Legal Heirship Certificate.

5.Now, the District Collector enquired and passed an order dated 31.12.2006, wherein clear finding has been rendered stating that there is dispute as to who is the lawfully wedded wife and since the petitioner as well as the fourth respondent are claiming right, the District Collector has rightly directed the parties to approach the civil Court.

6.It is submitted by the fourth respondent that already suit is pending in O.S.No.976 of 2005 and the civil court is the competent forum to adjudicate this dispute.

7.There can be no quarrel on the above legal position. However, in the interregnum, the fourth respondent cannot take advantage of the Legal Heirship Certificate dated 19.06.2006 certifying that she alone is the legal heir of late Shanmugasundaram. Furthermore, the fourth respondent has to establish that she is the lawfully wife of late Shanmugasundaram. She has to establish the same in the manner

known to law by independently leading oral and documentary evidence. Likewise, the petitioner is also entitled to lead oral and documentary evidence and establish that she is the lawfully wedded wife of late Shanmugasundaram.

8. Accordingly, this writ petition is disposed of making it clear that the Legal Heirship Certificate issued in the name of the fourth respondent dated 19.06.2006 cannot be used by the fourth respondent for any purpose to establish that she is the sole legal heir to late Shanmugasundaram. The Civil Court while considering the civil suits which are pending or if any fresh proceedings are initiated shall decide the matter independently, based on the oral and documentary evidence without being in any manner influenced by the observations made by the Revenue Officials.

9. This writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated: 9.3.15

True Copy

Sub Assistant Registrar

To

1. The District Collector,
Collector office compound,
Salem - 636 001.

2. The Revenue Divisional Officer
Revenue Division Office
Collector office compound,
Salem - 636 001.

3. The Thasildhar,
Thasildhar Office,
Vazhapadi,
Salem District.

+1 cc to M/s. Sree sun Associates, Advocate, SR.1113

+1 cc to Mr. R. Thamarai Selvan, Advocate, SR.11773.

pa(co)
krd 11/3

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