

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.143 of 2014

D.Prema Jancy Rani

..Petitioner

/vs/

1.The District Collector,
Collectorate,
Kancheepuram District.

2.The Thasildhar,
Tambaram Thasildhar Office,
G.S.T.Road,
Tambaram,
Kancheepuram District.

3.F.J.Hercy

4.F.J.Daniel

5.F.J.Phenahas

6.F.J.Gershom

7.F.J.Samuel

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 13.11.2012 made in Na.Ka.No.5641/2012/A4 passed by the 2nd respondent and quash the same as illegal and arbitrary and consequently direct the second respondent to issue legal heirs certificate by considering the petitioner's representation dated 17.10.2012.

For Petitioner

..Mr.A.Thiyagarajan

For Respondents

..Mr.R.A.S.Senthilvel,

Additional Government Pleader
for R1 and R2

No Appearance for R3 to R7

ORDER

The petitioner is said to be the wife of the deceased husband viz., A.K.Frank Jayaseelan. A representation made by the petitioner dated 17.10.2012 to issue a legal heir certificate in her favour was rejected on the ground that his husband had two wives and one of the male legal heir of the deceased born through the first wife could not be enquired. Challenging the same, the present writ

petition has been filed.

2.As rightly submitted by the learned counsel appearing for the petitioner, merely because the first wife of the deceased died, the same cannot be a ground to refuse to issue the legal heir certificate, including the name of the petitioner, provided the petitioner had married the deceased husband, after the death of the first wife. Unfortunately, such a finding has not been given. Similarly while there may not be any objection to include the male legal heir of the deceased through the first wife, in the event of the petitioner marriage having been solemnised after the death of the first wife, she also cannot be excluded. Further more, an order obtained by the petitioner in the maintenance case cannot be a ground to refuse the legal heir certificate, as the petitioner continues to be the wife of the deceased husband, until there is a valid divorce in the eye of law.

3.Accordingly, the impugned order is set aside and the writ petition is disposed of. Consequently, a direction is issued to the second respondent to conduct fresh enquiry by calling the petitioner and other legal heirs and conclude the same, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1.The District Collector,
Collectorate,
Kancheepuram District.

2.The Thasildhar,
Tambaram Thasildhar Office,
G.S.T.Road,
Tambaram,
Kancheepuram District.

1 cc to Mr. A.Thiyagarajan, Advocate Sr.No.42281
1 cc to Government Pleader.Sr.No.42453

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bvr (co)pmk.31.8.2015