

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4318 of 2015 and M.P.No.1 of 2015

Rajabai

...Petitioner

Vs

1. The Tahsildar,
Tambaram Tahsildar Office
Chennai

2. The Revenue Inspector,
Tambaram Tahsildar Office,
Chennai

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records, leading to the proceedings bearing vide No.Na.Ka.No.2961/14.A5 dated 21.07.2014 issued by the 1st respondent to issue the legal heir certificate to the petitioner in accordance with law in a time bound manner.

For Petitioner : Mr.J.Duthie Marshall

For Respondents : Ms. P.Rajalakshmi
Government Advocate

O R D E R

Heard Mr.J.Duthie Marshall, learned counsel appearing for the petitioner and Ms.P.Rajalakshmi, learned Government Advocate accepts notice for the respondents. With the consent of either side, the Writ Petition itself is taken up for final disposal.

2.The order impugned in this Writ Petition is dated 21.07.2014 passed by the 1st respondent rejecting the petitioner's application for grant of legal heirship certificate consequent upon the death of her husband Raja. The only reason assigned in the impugned order is that the petitioner is not residing in the said address and when the enquiry was made in the locality, it was ascertained that the petitioner was no longer residing there.

3.The case of the petitioner is that she is the lawfully wedded wife of Raja and marriage was solemnized at Nagercoil on 04.02.1988 and the same was also registered. Out of the wedlock, it is stated that she has got two sons namely, Jenifer Bibin, who is presently aged 25 years and namely, Jenitton Shibin, who is presently aged 21 years.

4.According to the petitioner, her husband was working at Chennai and he came in contact with the lady namely, Selvi and out of the relationship there were two children, namely Henifer Princy, presently aged 23 years and George Fernandez presently aged 18 years. The petitioner would state that her husband died on 30.05.2010 and on the very next day, Selvi also died on 31.05.2010. The petitioner, now, states that all the four children (with her children as well as children of Selvi) are under her care and custody. She did not have any near relatives in Chennai and she had to shift to Kanyakumari District, which is her native district.

5.It is seen from the death certificate issued by the Corporation of Chennai certified that Raja died on 30.05.2010 and the place of demise has been stated as 71/B, Sudha Nandha Barathi Street, Ganapathipuram, East Tambaram, Chennai. The death certificate issued by the Corporation is a public record, therefore, the same is a presumption to its validity and correctness of the information found therein unless established otherwise. Therefore, the 1st respondent can very well take into consideration the death certificate to show that the deceased died within the jurisdiction of the 1st respondent.

6.It may be true that the petitioner is now in Kanyakumari District, that alone would not be a disqualification to the petitioner to seek for death certificate of her husband Raja, who admittedly died within the jurisdiction of the 1st respondent. However, for the purpose of conducting enquiry, the petitioner has to appear before the 1st respondent, produce all records and necessary affidavits as called for.

7.In the result, this Writ Petition is allowed and the impugned order is quashed and the matter is remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to issue notice to the petitioner calling upon the petitioner to appear for enquiry and during such enquiry, the petitioner is directed to produce all records in support of her claim and thereafter, the 1st respondent shall consider the application on

merits and in accordance with law within a period of three months.
Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Tahsildar,
Tambaram Tahsildar Office
Chennai
2. The Revenue Inspector,
Tambaram Tahsildar Office,
Chennai.

2 cc to Mr. J.Duthie Morshall, Advocate, SR.No.9677/15
1 cc to Government Pleader, Sr.No9414/15

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