

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.9315 of 2015

- 1) S.Mahalakshmi
- 2) T.Ammu
- 3) S.Raja
- 4) S.Sivagami

.... Petitioners

vs.

The Tahsildar,
Office of the Tahsildar
Alandur, Chennai

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of Writ of Certiorarified Mandamus by calling the impugned order of respondent vide Endorsement OO.Mu.No.5430/2014/A6 dated 1.11.2014 and quash the same and consequently direct the respondent herein to issue the Legal Heir Certificate to the petitioners herein based on their application furnished to the respondent herein.

For Petitioner : Mr.J.Kannan

For Respondent : Mr.M.L.Mahendran
Government Advocate

O R D E R

Heard Mr.J.Kannan, learned counsel appearing for the petitioner and Mr.M.L.Mahendran, learned Government Advocate appearing for respondent and perused the materials placed on record. With the consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner has filed this Writ Petition praying for a issuance of Writ of Certiorarified Mandamus by calling the impugned order of respondent vide Endorsement OO.Mu.No.5430/2014/A6 dated 1.11.2014 and quash the same and consequently direct the respondent herein to issue the Legal Heir Certificate to the petitioners herein based on their application furnished to the respondent herein.

3. The petitioner is aggrieved by the order passed by the respondent rejecting the order for grant of legal heir ship

certificate on the ground that deceased, namely, Shanmugavel had two wives. It is stated by the petitioner that the respondent passed an impugned order without even conducting enquiry and without assigning full facts.

4. After hearing the learned counsel for the petitioner as well as the learned Government Advocate for the respondent, who has accepted notice for the respondent and after perusing the materials placed on record, it is seen that the 1st petitioner is the 1st wife of Shanmugavel and it is stated that there are no issues born out of the wedlock with Shanmugavel. The petitioners 2 to 4 are daughters and son of Shanmugavel born to the 2nd wife, namely, Maragatham, who is no more and pre-deceased Shanmugavel. Therefore, the petitioner would state that there is no dispute with regard relationship and there are no rival claims. Without conducting enquiry, the authority has rejected the application solely on the ground that the said Shanmugavel had more than one wife.

5. In the light of the aforesaid factual position and taking note of the contention that there is no dispute or rival claim, it is a fit case where the respondent should be directed to conduct enquiry and ascertain the full facts.

6. For all the above said reasons, the Writ Petition is allowed and the impugned order dated 01.11.2014 is quashed and the matter is remanded to the respondent to consider the matter afresh and take note of the submission made by the petitioner stating that the 1st petitioner is the 1st wife of Shanmugavel and there are no issues for her and the petitioners 2, 3 and 4 are the children born to 2nd wife, namely Tmt. Maragatham, who is said to have pre-deceased Shanmugavel after taking note of all the facts, considering documents produced and after conducting enquiry, the respondent shall pass fresh orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

With the above direction, this Writ Petition is disposed of. No costs.

ssd

s/d-

Assistant Registrar (R)

True Copy

Sub-Assistant Registrar

To

The Tahsildar,
Office of the Tahsildar
Alandur, Chennai

+ 1 cc to Mr.J.Kannan, Advocate SR 18142

+ 1 cc to the Government Pleader High Court, Madras 18386

gp (Co)
prk13/4

W.P.No.9315 of 2015



WEB COPY