

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.19305 of 2013
& M.P.NO.1 of 2013

K.Pazhaniammal

.. Petitioner

Versus

The Tahsildar,
Edapady,
Salem District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus callingi for the records with relates to the Legal heirship certificate dated 16.08.2012 bearing ref.No.Pa.Mu.5693 of 2011/A2 issued by the respondent and quash the same insofar as the mentioning of the relationship with the deceased in Sl.No.2 as second wife, in Sl.No.3 as second wife's daughter and in Sl.No.4 as second wife's son and consequently direct the respondent to issue fresh Legal Heriship Certificate mentioned the relationship with the deceased R.Karthikeyan in Sl.No.2 as wife, in Sl.No.3 as Daughter and in Sl.No.4 as Son.

For Petitioner : Mr.Ilanthiraiyan
for M/s.Sai Bharath and Ilan

For Respondents : Mr.R.Vijayakumar
Additional Govt. Pleader

O R D E R

Heard Mr.Ilanchezhian, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondent.

2. The petitioner has filed this writ petition seeking for a Writ of Certiorarified Mandamus to quash the Legal Heirship Certificate dated 16.08.2012 bearing ref.No.Pa.Mu.5693 of 2011/A2 issued by the respondent, wherein, it is mentioned that the petitioner is the second wife of Late R.Karthikeyan and her children are mentioned as the children of the second wife of

Late.R.Karthikeyan, which is according to the petitioner, is illegal entry and has to be set aside.

3. From the documents placed before this Court, it is seen that there is no rival claim as against the petitioner. The Service Register of her deceased husband shows that the petitioner is his wife and Keerthika and Baskaran are their children and Tmt.Alamelu is the mother of the deceased, who is mother-in-law of the petitioner. It is true that the petitioner's husband married one Lalitha on 24.10.1996, but that marriage appears to have been dissolved and she allegedly eloped with her lover and this is also reported in the Tamil Daily papers and a copy of the paper news is also produced by the learned Additional Government Pleader before this Court.

4. From the report submitted by the respondent to the Government Advocate, Sankari, it is seen that the respondent - Tahsildar reported that there was a prior marriage between Lalitha and Karthikeyan and the said Lalitha is alive, but there is no children out of the said wedlock. The Tahsildar further stated that after the said marriage, Karthikeyan married the petitioner and therefore, she has been described as second wife. Further, the records enclosed along with the report of the Tahsildar, as produced by the learned Additional Government Pleader, show that the petitioner has been described as wife by Karthikeyan in all the records, there is also a dissolution of marriage agreement dated 03.05.1997, which appears to have been entered into shortly after the first marriage dated 24.10.1996. Thus, there appears to have been a dissolution of the said marriage with Lalitha, which appears to be a Custom in the said community and as on date, there is no rival claim and the Service Register, which was opened in the year 1996 reflects the name of the petitioner as the wife of the deceased R.Karthikeyan. In such circumstances, describing the petitioner as second wife in the Legal Heirship Certificate is incorrect.

5. Accordingly, this writ petition is allowed. The impugned Legal Heirship Certificate insofar as it states the petitioner as second wife of R.Karthikeyan and her children are the children born to the second wife of R.Karthikeyan is directed to be modified as wife and children of R.Karthikeyan. The respondent is directed to issue fresh Legal Heirship Certificate, as directed above, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

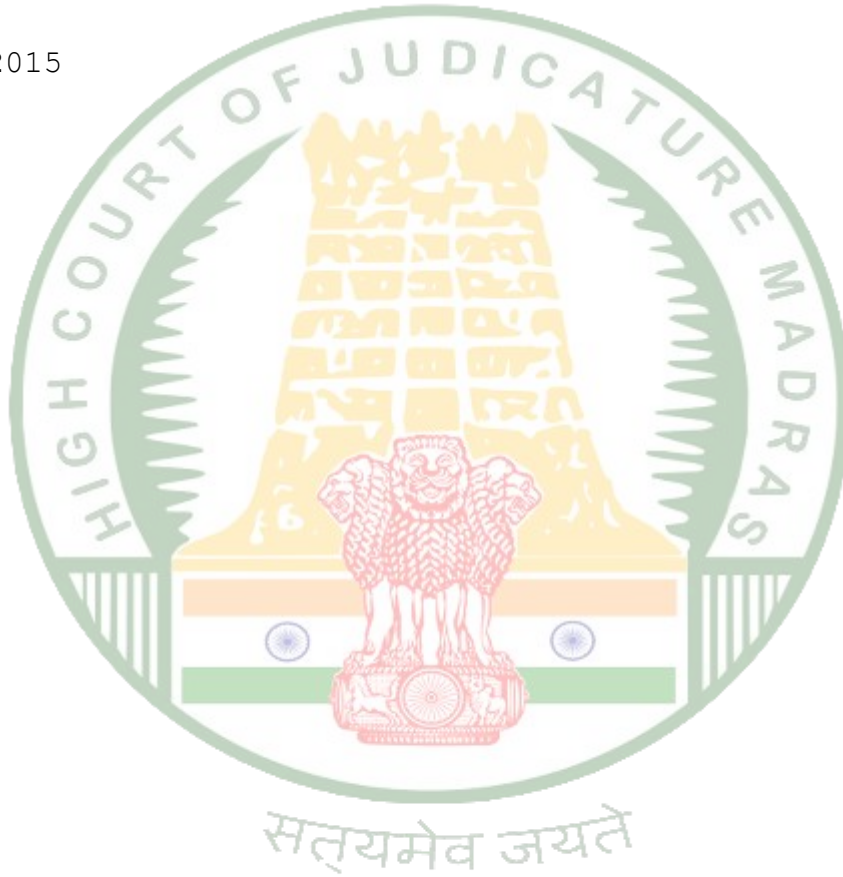
The Tahsildar,
Edapady,
Salem District.

1 cc to Mr.M/s.Sai Bharath and Ilan ,Advocate, SR.No.12378

1 cc to Government Pleader,Sr.No12583

W.P.NO.19305 OF 2013

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