



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2015

Coram

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) .No.14395 of 2015

Koppammal

:Petitioner

vs.

1.The District Collector,
Virudhunagar District,
Collectorate,
Virudhunagar.

2.The Tahsildar,
Srivilliputhur,
Taluk Office,
Srivilliputhur,
Virudhunagar District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.A4/1038/2015, dated 10.07.2015 passed by the second respondent and quash the same and consequently directing the respondent to issue legal heir certificate for the petitioner's deceased husband declaring her as the only surviving legal heir as per law.

For Petitioner

:Mr.R.Narayanan

For Respondents

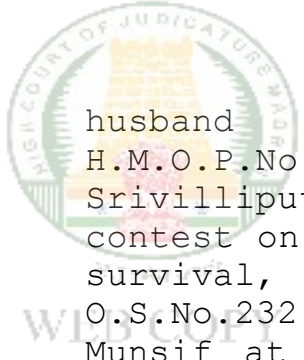
:Mr.S.Kumar,

Additional Government Pleader

O R D E R

The Writ Petition has been filed, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.A4/1038/2015, dated 10.07.2015 passed by the second respondent and quash the same and consequently direct the respondent to issue legal heir certificate for the petitioner's deceased husband declaring her as the only surviving legal heir, as per law.

2. The learned counsel for the petitioner submitted that the marriage of the petitioner was solemnized on 13.06.1982 at ~~Virudhunagar District~~ in Srivilliputhur in accordance with Hindu Rites and Customs. The petitioner's husband was working in the Police Department as Head Constable. In the year 1998, the petitioner's

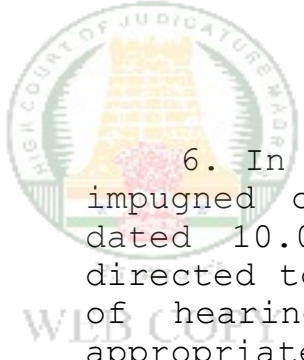


husband filed a divorce petition in H.M.O.P.No.53 of 1998 on the file of the Sub-Court, Srivilliputhur. The said divorce petition was dismissed after contest on 14.12.1999. Since the petitioner was suffering for her survival, she filed a civil suit for maintenance in O.S.No.232 of 2000 on the file of the learned Principal District Munsif at Srivilliputhur. The said suit was partly allowed by granting maintenance of Rs.800/- per month. In such circumstances, the petitioner's husband died on 10.05.2015 leaving the petitioner as legal heir. The mother of the petitioner's husband predeceased and as such there is no other legal heir for the petitioner's husband. Hence, the petitioner made a request before the second respondent to issue legal heirship certificate for her. But the second respondent rejected the request of the petitioner by assigning a reason that the petitioner lived with her husband only for a period of two months and later, the petitioner's husband filed a divorce petition in H.M.O.P.No.53 of 1998. The learned counsel further submitted that the divorce petition filed by the petitioner's husband was dismissed by the Sub-Court, Srivilliputhur on 14.12.1999. Against the said dismissal order, the petitioner's husband has not filed any appeal. Though this fact was brought to the notice of the second respondent, without considering the said fact, the second respondent simply rejected the request of the petitioner stating that there was difference of opinion between the petitioner and her husband Late.V.Kasirajan and thus directed the petitioner to approach the civil Court to get an appropriate order with regard to issuance of legal heirship certificate.

3. The learned Additional Government Pleader on instructions submitted that the divorce petition filed by the husband of the petitioner was dismissed as early as on 14.12.1999 and thereafter, he has not filed any appeal. He further submitted that since there was difference of opinion between the petitioner and her husband Kasirajan during his life time, the second respondent has directed the petitioner to approach the civil Court to get an appropriate order from the civil Court with regard to issuance of legal heirship certificate.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials available on record.

5. Considering the factual aspects of the case, this Court finds that there is no counter claim as against the petitioner with regard to the issuance of legal heirship certificate in favour of the petitioner. Under such circumstances, the second respondent himself by conducting a detailed enquiry ought to have ~~perused the materials available on record~~ instead of directing the petitioner to approach the civil Court and hence, the impugned order is liable to be set aside.



6. In the result, the Writ Petition is allowed. No Costs. The impugned order of the second respondent in Na.Ka.A4/1038/2015, dated 10.07.2015, is set aside and the second respondent is directed to consider the matter afresh by affording an opportunity of hearing to all the necessary parties if any and pass appropriate orders with regard to issuance of legal heirship certificate. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

PM

To

1.The District Collector,
Virudhunagar District,
Collectorate, Virudhunagar.

2.The Tahsildar,
Srivilliputhur,
Taluk Office,
Srivilliputhur, Virudhunagar District.

+1cc to MR.R.NARAYANAN, Advocate Sr.No 47640

JAM/NGM-SS/5.9.15/3P-4C

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