

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.15367 of 2016

Vanaja

... Petitioner

Vs.

The District Collector,
Tiruvallur District at
Tiruvallur

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to pass an order on the petitioner's appeal dated 21.12.2015 with in a time frame fixed by this Hon'ble Court.

For Petitioner : Mr. P.Dinesh Kumar

For Respondent : Mrs.M.E.Rani Selvam
Additional Government Pleader

O R D E R

By consent, the Writ Petition is taken up for hearing at the stage of admission itself.

2. The petitioner has come forward with this Writ Petition seeking for a mandamus upon the respondent to pass an order on the petitioner's appeal dated 21.12.2015 with in a time frame fixed by this Court.

3. According to the petitioner, she is the adopted daughter of one Shobana and the said Shobana is the absolute owner of the property situate at Door No.8/11, Thaimoogambigai Street, Janaki Nagar, Valasaravakkam, Chennai-87. As the said Miss.M. Shobana had not married, with the consent of her sister, she adopted the petitioner as her adopted daughter in the year 1982. Subsequently, out of love and affection, her adopted mother executed a Will on 6.6.2014 in her favour bequeathing the above mentioned property. On 14.9.2014, her adopted mother died. From the date of death of her adopted mother, the petitioner became the sole, legal and absolute owner of the above said property.

4. During the life time of her adopted mother, one Mr.V.S.Boopalan was residing with them as a care taker. The said Mr. V.S.Boopalan was already married with one Anuradha and out of their wedlock, they have got two daughters. There was no marriage solemnized between the petitioner's adopted mother Shobana with the said Mr.V.S.Boopalan and the marriage between the said Mr.V.S.Boopalan with the said Anuradha is still subsisting. The said V.S.Boopalan is well aware of the Will executed by the said M. Shobana in petitioner's favour and in fact, he himself signed as one of the attested witnesses in the last Will and testament executed by Miss. Shobana.

5. Subsequent to the demise of her adopted mother, the said V.S.Boopalan obtained a legal heir certificate in a fraudulent manner from the Tahsildar, Maduravoyal as if he is the legally wedded husband of the said deceased Miss. M. Shobana. Infact, there was no marriage solemnized between her adopted mother Shobana with the said Mr.V.S.Boopalan and such alleged marriage is void and the said V.S.Boopalan has no legal status to claim as a legal heir of her deceased adopted mother Shobana.

6. It is the further case of the petitioner that the records clearly reveal that the said Mr.V.S.Boopalan is not the legally wedded husband of late M. Shobana. At the time of his daughter's marriage in the year 2000, in the marriage invitation itself, Mr.V.S.Boopalan has clearly mentioned his wife's name as Anuradha. Further in the application for Indian Bank Pensioners Loan Scheme dated 19.12.2012 submitted by the said V.S.Boopalan to the Indian bank, Valasaravakkam Branch, he clearly mentioned his wife's name as Anuradha and daughters name as B. Anitha and B. Deepa respectively and apart from that, in the said loan application, the wife of the said V.S.Boopalan namely Anuradha stood as a guarantor and she clearly mentioned in the legal heir details that she is the wife of the Mr.V.S.Boopalan.

7. The above said V.S.Boopalan by playing a big fraud before the revenue officials/Tahsildar had obtained the legal heir certificate in a fraudulent manner in order to grab the above mentioned property by taking advantage of his position, being a retired police official in State Government. By using the fraudulent legal heirship certificate, the said Mr.V.S.Boopalan executed a settlement deed in respect of the above said property in favour of his two daughters on 20.10.2015 which was duly registered as Document No.7317 of 2015 dated 26.10.2015 in the office of S.R.O., Valasaravakkam.

8. On coming to know about the same, the petitioner immediately filed a suit in O.S.No.539 of 2015 before the learned Principle District Munsif, Poonamallee for declaration

of petitioner's title through the Will in her favour. The petitioner also preferred an appeal before the respondent herein against the order of the Tahsildar, Maduravoyal granting the Legal Heirship Certificate to the said Mr.V.S.Boopalan. Despite receipt of appeal on file, so far no action has been taken by the respondent to dispose of the same and no enquiry is called for till date. Hence the petitioner has filed the present writ petition.

9. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader who has taken notice on behalf of the respondent.

10. In view of the submissions of learned counsel for petitioner, this Court, without going into the merits of the case, directs the respondent, viz., the District Collector, Thiruvallur District, Thiruvallur to dispose of the appeal dated 21.12.2015 preferred by the petitioner by conducting an enquiry after affording an opportunity of personal hearing to the petitioner as well as to the said V.S. Boopalan and other necessary parties, if any and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the appeal preferred by the petitioner and it is for the respondent to decide the matter purely on merits.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The District Collector,
Tiruvallur District, Tiruvallur.

+ 1 cc to The Govt. Pleader, Hct, Madras. S.R.No.26650

+ 1 cc to Mr.P.Dinesh Kumar, Advocate Sr 26158

KR/6/6/16

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