

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.21375 of 2015

and

M.P.No1. of 2015

J.Kaliammal ... Petitioner

vs.

1.The Tashildhar,
Mambalam-Guindy Range,
K.K.Nagar,
Chennai 600 078.

2.B.Karpagam

3.R.Sivalingam

4.R.Arumugam

5.R.Ramani

6.R.Ravi

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the first respondent to cancel the legal heir certificate issued in reference number Ne.Mu.B.I.No.40298/05 under serial number 1444 dated 02.01.2006 and issue a fresh legal heir certificate incorporating the petitioner and the respondents 2 to 6 as the legal heirs of the deceased Rangasamy.

For Petitioner : Mr.V.S.Usha Rani

For Respondents : Mr.V.Jayaprakash Narayanan,
SGP
for R1

ORDER

The petitioner has come up with the present writ petition for a Mandamus, directing the first respondent to cancel the legal heir certificate issued in Ref.No.Ne.Mu.B.I.No.40298/05, under Sl.No.1444, dated 02.01.2006 and issue a fresh legal heir certificate incorporating her name as well as the respondents 2 to 6 as the legal heirs of the deceased Rangasamy.

2. It is the case of the petitioner that the petitioner is the only daughter born to her parents viz., Rangasamy and Ammani Ammal. After the demise of her mother on 10.02.1951, her father married one Lakshmi Ammal and out of their wedlock, five children were born viz., R.Ramani, R.Ravi, R.Sivalingam, R.Karpagam and R.Arumugam. After the death of the petitioner's father Rangasamy and his second wife Lakshmi Ammal, the children of the second wife had joined together and obtained a legal heir certificate on 02.01.2006 incorporating their names alone, suppressing the fact that the petitioner is also one of the legal heirs of the said Rangasamy through the first wife. When the petitioner came to know about the same, she made a requisition dated 23.05.2014 to the Tashildhar, Guindy, Mambalam Range, K.K.Nagar, Chennai informing all the facts as stated above and requesting to issue a fresh legal heir certificate incorporating her name along with respondents 2 to 6 and the said representation is pending without any progress. In the meanwhile, the petitioner claimed her share in the property allotted to her father by the Tamil Nadu Slum Clearance Board. However, the respondents 2 to 6 denied the same and also threatened the petitioner with dire consequences. In this regard, the petitioner had lodged a complaint dated 24.07.2014, which was duly received by the Inspector of Police, Saidapet Police Station, Chennai and an acknowledgment was given vide C.S.R.No.403 of 2014 dated 01.08.2014. However, till date no First Information Report was registered. Therefore, the petitioner has come forward with the present writ petition for the above stated relief.

3. Heard Mrs.V.S.Usha Rani, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, who took notice for the first respondent.

4. Though the notice was served on respondents 2, 4 to 6 and their names have been printed in the cause list, there is no representation on behalf of respondents 2 and 4 to 6 either in person or through their counsel. Insofar as the third respondent is concerned, notice was returned with an endorsement "deceased".

5. Considering the facts and circumstances of the case, this Court directs the petitioner to make a fresh representation stating all the facts along with a copy of this order to the first respondent, within a period of two weeks, from the date of receipt of a copy of this order. On making such representation, the first respondent is directed to conduct enquiry by affording an opportunity of personal hearing to the petitioner as well as to respondents 2 and 4 to 6 and pass an appropriate order with regard to issuance of legal heir certificate afresh, within a period of eight (8) weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the first respondent to pass appropriate order purely on merits and in accordance with law.

6. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Tashildhar,
Mambalam-Guindy Range,
K.K.Nagar,
Chennai 600 078.

+1cc to the Government Pleader SR.24586
+ 1 cc to Ms.V.S.Usha Rani, Advocate sr no 24407[7/6/16]

W.P.No.21375 of 2015

sv[co]
srg 27/05/2016