

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.32478 of 2016

V.Shantha

.. Petitioner

Vs.

1.The District Collector,
Sinkaravelan Maligai,
Chennai - 600 001.

2.The Revenue Divisional Officer,
Ezhumpoor (PO),
Nungambakkam (TK),
Chennai - 600 031.

3.The Tahsildar,
Ezhumpoor (PO),
Nungambakkam (TK),
Chennai - 600 031.

4.S.Shanthi

5.S.Jeya Keerthi Samuvel

6.S.Sathya

... Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the third respondent pertains to the legal heir certificate bearing Ref.No.Nee.Mu.EA/10941/2012 dated 04.05.2012 issued by the third respondent and quash the same as illegal.

For Petitioner : Mr.K.Suresh

For Respondent Nos.1 to 3: Mr.P.Chinnadurai
Government Advocate

For Respondent Nos.4 to 6: Mr.L.Chandrakumar

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records of the third respondent pertains to the Legal Heirship Certificate bearing Ref.No.Nee.Mu.EA/10941/2012 dated 04.05.2012 and quash the same.

2.The marriage between the petitioner and one A.Sathanantham, was solemnized on 27.10.1978 and due to the wedlock, they were blessed with one male child, namely, S.S.Vijay Rajesh. At the time of marriage, her husband has already married one Gray Chellaiah and they have three children and she died in the year 1996 and her husband died on 03.02.2007. After demise of her husband, she applied for Legal Heirship application before the Madurai South Tahsildar on 31.03.2016 but they refused to issue the same. Hence, she filed W.P.No.8291 of 2016 before the Madurai Bench of this Court and based on the writ petition, she got Legal Heirship Certificate on 18.08.2016 including all the Legal Heirships. However, the respondents 4 to 6 have already obtained Legal Heirship Certificate from the third respondent on 04.05.2012 and getting the family pension illegally. According to the petitioner, she made representations to the respondents to cancel the Legal Heirship Certificate but till date no action has been taken and hence, the Writ Petition has been filed.

3.The learned counsel appearing for the petitioner would submit that the first wife died leaving the family way back in the year 1996. But suppressing the petitioner / second wife, the children has got Legal Heirship Certificate from the third respondent excluding the petitioner's son. As per the direction of the Madurai Bench of this Court in W.P.No.8291 of 2016, now, the petitioner has obtained the Legal Heirship Certificate, including her name and her son's name. Therefore, the first Legal Heirship Certificate dated 04.05.2012 will have to be cancelled.

4.The learned counsel appearing for the respondents 4 and 6 would contend that in view of the death of the father, the second wife may not be entitled to all the benefits.

5.Heard the learned Government Advocate appearing for the respondents 1 to 3.

6.As rightly pointed out by the learned counsel for the petitioner that the present Legal Heirship Certificate, which was issued on 18.08.2016 is the legally valid Legal Heirship Certificate. In view of the certificate being issued from the proper Office, namely, Madurai, where the death took place as well as the parties were residing, the Legal Heirship Certificate issued by the Tahsildar, Nungambakkam, Chennai, has got to be automatically cancelled. Therefore, the third respondent will record the Legal Heirship Certificate as given by the Tahsildar, Madurai and cancel the Legal Heirship Certificate dated 04.05.2012, issued by the Tahsildar, Nungambakkam.

7.With these observations, the Writ Petition is allowed. In view of the amended Legal Heirship Certificate, it is open to the petitioner to claim atleast some portion of the family pension. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sri

To

- 1.The District Collector,
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Chennai - 600 001.
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Nungambakkam (TK),
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- 3.The Tahsildar,
Ezhumpoor (PO),
Nungambakkam (TK),
Chennai - 600 031.

+2cc to Mr.K.Suresh, Advocate Sr.63532
+1cc to Mr.L.Chandrakumar, Advocate Sr.63614
+1cc to the Government Pleader Sr.63942

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srg 21/12/2016