



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.11354 of 2016

Surya

..Petitioner

Vs

The Tahsildar,
Taluk Office,
Kilakarai,
Kilakarai Taluk,
Ramanathapuram District.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to issue Legal Heir Certificate in favour of the Petitioner.

For Petitioner :M/sJ.Hassanul Bazari
For Respondent :Mr.J.Gunaseelan Muthiah
Govt.Advocate.

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.No counter is filed on behalf of the respondent.

4.According to the Petitioner, his father Pullani had two wives namely, Karral Ammal, who is the first wife. His father's first wife Karral Ammal had no issues and she died. After the demise of his first wife, the Petitioner's father had married one Mankachi Ammal as second wife and through her the Petitioner and sister Ulaga Madha were born.

5.The grievance of the Petitioner is that he is working in Tamil Nadu Police as Constable and his late father had some property in his native village. The specific stand of the Petitioner is that he and his sister Ulaga Madha are the only legal heirs of his father Pullani. He and his sister had entered into a partition, as regards their father's property and at the time of registration, the Registration Department had asked him to produce the Legal Heirship Certificate of his father. It appears that on 21.09.2015, the Petitioner made an application before the Respondent/The Tahsildar, Taluk Office, Kilakarai, Kilakarai Taluk, Ramanathapuram District together with necessary documents and prayed for issuance of the Legal Heirship Certificate in his favour. However, the Respondent through proceedings in Oo.Mu.Aa3/5263/2015, dated 23.10.2015 had informed the Petitioner



that his father has two wives and refused to issue the Legal Heirship Certificate to him. Subsequently on 23.12.2015, he approached the Respondent and submitted another representation together with necessary documents and narrated the facts and requested the Respondent for issuance of Legal Heirship Certificate to his father and the said application is pending.

6. At this stage, this Court has perused the memo order of the Respondent dated 23.10.2015 and after going through the contents of the said memo, this Court is of the considered view that the observations made by the Respondent inter-alia to the effect that the Petitioner's father was married twice and therefore as per the Government Rules, there is no possibility to issue Legal Heirship Certificate to the Petitioner. The said observation of the Respondent in the memo, dated 23.10.2015 is not legally tenable, as opined by this Court. In Law, after the death of the first wife, there is no bar for the Petitioner's father to marry a person for the second time. If that be the settled legal position, the contra view taken by the Respondent in the Memo dated 23.10.2015 to the effect that the Petitioner's father had married twice and therefore, as per Government Rules, there was no possibility to issue Legal Heirship Certificate does not stand in the moments scrutiny in the eye of Law. Therefore, this Court in the interest of justice interferes with the said order, dated 23.10.2015 passed by the Respondent and set aside the same. Consequently, the Writ Petition succeeds.

7. In fine, the Writ Petition is allowed, leaving the parties to bear their own costs. The order made in Memo, dated 23.10.2015 is hereby set aside, for the reasons assigned in this Writ Petition.

8. In view of the fact that the Petitioner's representation, dated 23.12.2015 is pending on the file of the Respondent/The Tahsildar, Taluk Office, Kilakarai, Kilakarai Taluk, Ramanathapuram District, the said authority is directed to take up the representation of the Petitioner, dated 23.12.2015 within a period of one week from the date of receipt of a copy of this order and thereafter, to pass a reasoned speaking order, on merits (outlining the process of reasoning in a qualitative and quantitative terms, of course after providing necessary opportunity to the Petitioner and others concerned, if any by adhering to the principles of natural justice in true letter and spirit) within a period of two weeks thereafter. It is open to the Petitioner to produce copies of all necessary/relevant documents including the certified copy or true copy of the Death Certificate of his father's first wife before the Respondent and the Respondent shall take into consideration of the same at the time of disposal of the representation of the Petitioner, dated 23.12.2015.



9. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

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Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To
The Tahsildar,
Taluk Office,
Kilakarai,
Kilakarai Taluk,
Ramanathapuram District.

+1cc to M/s.J.M.Hassanul Bazari, Advocate in SR.33334
+1cc to the Special Government Pleader, in SR.33206

W.P(MD)No.11354 of 2016
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vsn

PBK/SKS-RR/SAR-I 01/07/2016 ::3P-4C::