



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.14214 of 20161.P.Chinnathai
2.P.Manikandan

... Petitioners

Vs.

The Tahsildhar,
Madurai North Taluk,
Madurai.

... Respondent

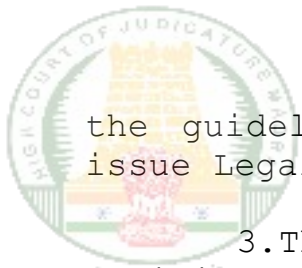
Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the respondent herein in his proceeding in Moo.Mu.No. /16/c2, dated 26.05.2016 and quash the same and further direct the respondent herein to issue legal heirship certificate for deceased Paramathevar in respect of the persons namely 1)P.Chinnathai-wife 2)P.Parameswari-daughter 3) P.Tamilselvei-daughter 4)P.Singaraj-son 5) Manikandan-son 6)P.Packiyalakshmi-daughter and 7)P.Rajalakshmi-daughter.

For Petitioner	: Mr.V.Meenakshi Sundaram for Mr.M.Senthilkumar
For Respondent	: Mr.V.Muruganandham, Additional Government Pleader

ORDER

The petitioners have filed this Writ Petition challenging the order passed by the Tahsildar, Madurai North Taluk, Madurai, rejecting their application for grant of Legal Heir Certificate.

2. According to the first petitioner, she is the first wife of one Pramathevar. When the first marriage is subsisting, the said Paramathevar married another woman namely one Petchiammal. Out of the wedlock, the first petitioner got four children and the second wife got two children and the said Paramathevar died on 25.04.2014 and with the consent of the second wife and other legal heirs, an application was filed for issuing Legal Heir Certificate. But the respondent rejected the said application on the ground that since the said Paramathevar had two wives, as per



the guidelines issued by the Government, the respondent cannot issue Legal Heir Certificate to the petitioners.

3. The respondent filed a counter-affidavit stating that the petitioners did not produce 'No Objection Certificate' from the second wife Petchiammal and the application was filed suppressing the fact that the deceased Paramathevar had two wives. As per the guideline issued by the Government in Govt. Letter No.4534 Revenue Department, dated 28.11.1991, the respondent cannot issue Legal Heir Certificate when the deceased had more than one wife. Hence, the application made by the petitioners was rejected.

4. Heard the rival submissions made on either side and perused the materials available on record.

5. The learned counsel for the petitioners submitted that now the second wife has also given consent and filed an affidavit stating that there is no objection to issue Legal Heir Certificate to the legal heirs of the deceased Paramathevar, including her children.

6. But the learned Additional Government Pleader submitted that during enquiry no such affidavit has been filed and the affidavit is said to have been filed after passing of the impugned order by the respondent.

7. Now the petitioners obtained 'No Objection Certificate' from the second wife to issue Legal Heir Certificate including her children. Therefore, the impugned order passed by the respondent, dated 26.05.2016, is set aside and the matter is remitted back to the respondent to conduct fresh enquiry after issuing notice to the petitioners as well as all the legal heirs of the deceased Paramathevar. The respondent is directed to conduct enquiry and pass suitable orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is allowed accordingly. No Costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To
The Tahsildhar,
Madurai North Taluk,
Madurai.

+1cc to Special Government Pleader SR.No.56118
+1cc to M/s.M.Senthilkumar, Advocate SR.No.56476

W.P(MD)No.14214 of 2016

26.09.2016

pm
SD/SKS-RR/04.10.2016/3P/4C