



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.09.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.16716 of 2016

1.A.Karuppaiah
2.Poopandiammal
3.Murugeshwari
4.Rajvel
5.Lavanya

... Petitioners

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai East Taluk,
Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus calling for the records from the 2nd Respondent in his proceedings in O.Mu.No.10010/2016/E2, dated 05.08.2016 and to quash the same with a consequential direction to issue legal heir certificate for late Ayyanperumal and late Subramani, Sembiyanenthal Village, Madurai East Taluk and District.

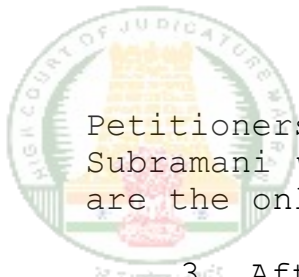
For Petitioners : Mr.N.Balakrishnan

For Respondents : Mr.J.Gunaseelan Muthaiah,
Government Advocate

O R D E R

Heard both sides. By consent, the main Writ Petition itself is taken up for final disposal. No counter-affidavit is filed on behalf of the Respondents.

2. It comes to be known that the First Petitioner's father Ayyanperumal, S/o.Muthandi Kudumpan, died on 01.06.1985 and his mother Pappathi died on 29.09.1999 and their deaths were duly registered before the Authority concerned. Further, it is the stand of the First Petitioner that he and his brother Subramani were the sons of their parents and in fact, the said Subramani(brother) died on 07.06.2012, leaving his wife and children, namely, the



Petitioners-2 to 5, as legal heirs. In fact, the death of Subramani was duly registered. According to the Petitioners, they are the only legal heirs of Ayyanperumal and his son Subramani.

3. After the death of the First Petitioner's parents and his brother, Death Certificates were issued by the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, during November 2015 in respect of his parents and on 21.06.2012 in respect of his brother.

4. The grievance of the Petitioners is that an application was filed by the First Petitioner before the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, seeking issuance of Legal Heir Certificate to and in favour of the Petitioners as Legal Heirs of the said Ayyanperumal and Subramani. For nearly nine months, the Second Respondent, had not conducted any enquiry in the Village. In fact, the Second Respondent had rejected the claim of the Petitioners on the ground that the deceased persons died 31 years ago.

5. At this stage, the Learned Counsel for the Petitioners projects an argument that the Respondents are obligated in Law to conduct an enquiry in the Village and then must issue a Legal Heir Certificate. In fact, the Respondents cannot deny their valuable right. Hence, they have filed the present Writ Petition before this Court.

6. At this stage, this Court on perusal of the impugned order, dated 05.08.2016, passed by the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, is of the considered view that the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, in candid terms had mentioned that the deceased Ayyanperumal died 31 years ago and therefore, it was not able to find out as to who are all his legal heirs and accordingly, opined that the First Petitioner could not be issued with Legal Heir Certificate.

7. A mere running of the eye over the contents of the impugned order, dated 05.08.2016 passed by the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, would show that since the First Petitioner's father Ayyanperumal died 31 years ago and therefore, it is not possible for the Second Respondent to find out, who are all the Legal Heirs, such a reasoning of the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, is *per se* illegal in the eye of Law, opined by this Court. In fact, there is no limitation in the eye of Law for securing/obtaining a Legal Heir Certificate by a concerned person in the manner known to Law and in accordance with Law. Likewise, there is also no 'Acquiescence or Waiver' plea that can be taken on behalf of the Second Respondent to negative the request of the First Petitioner for issuance of Legal Heir Certificate, in the subject matter in issue. Looking at from any angle, the impugned order, dated 05.08.2016 passed by the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, is not



inconformity with the requirement of Law. As such, this Court to secure the ends of justice, interferes with the said order and sets aside the same. Consequently, the Writ Petition succeeds.

8. In the result, the Writ Petition is allowed leaving the parties to bear their own costs. The impugned order, dated 05.08.2016 passed by the Second Respondent, is set aside by this Court, for the reasons assigned in this Writ Petition. It is made clear that allowing of this Writ Petition by this Court, will not preclude the Second Respondent/Tahsildar, Madurai East Taluk, Madurai, to look into the matter afresh, namely to take up the First Petitioner's petition in the subject matter in issue (seeking for issuance of Legal Heir Certificate and to pass a reasoned speaking order) with a open and free mind and also in a diligent and dispassionate manner, within a period of three weeks from the date of receipt of a copy of this order (Of course after adhering to the Principles of Natural Justice by issuing notice to the Petitioners and others concerned if any, if situation so warrants). Needless for this Court to make a significant mention that the Petitioners are to render their assistance and unstinted co-operation to the Second Respondent so as to enable the latter to do needful in their favour in the subject matter in issue, within the time afore stated.

Sd/-

Assistant Registrar (CS I)

/True Copy/

Sub Assistant Registrar

pm

To

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai East Taluk,
Madurai.

+1 cc to Mr. M.SAKUNDALA DEVI ,Advocate, Sr.No:50217
+1cc to M/S Special Government Pleader, Sr No. 50069

JAM/SS2/22.09.16/ 3P-5C

W.P (MD) No.16716 of 2016

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