



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM

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THE HON'BLE MR.JUSTICE M.VENUGOPALW.P.(MD) No.17844 of 2013

1.S.Murugesan

2.M.Jeyalakshmi

.. Petitioner

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the 2nd Respondent dated 19.11.2012 made in Oo.Mu.No.17978/2012/B1, and quash the same and direct the 2nd Respondent to issue Legal Heirship Certificate that they are the legal heirs of their deceased daughter Niruba.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.J.Gunaseelan Muthaiah
Government Advocate

O R D E R

Heard the Learned Counsel for the Petitioners and the Learned Government Advocate for the Respondents.

2.By consent, the writ petition is taken up for final hearing.

<https://hcservices.es.gov.in/hcservices> 3.No Affidavit is filed for the Respondents.

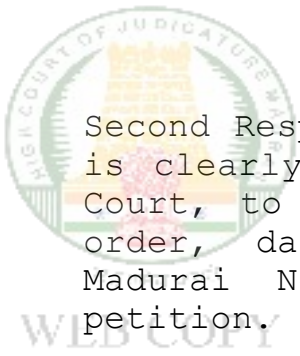


4. According to the Petitioners, their daughter Niruba was given in marriage to one M.Dhanasekaran. As a matter of fact, their daughter and son-in-law died in a motor accident without any issues, on 09.05.2012. In fact, the First Petitioner projected an application (undated) to the Second Respondent/Tahsildar, Madurai North Taluk, Madurai District, seeking issuance of Legal Heir Certificate in respect of their deceased daughter for the purpose of claiming Motor Accident Compensation amount.

5. It comes to be known that the parents of the Petitioners' son-in-law had applied for Legal Heir Certificate of their deceased son M.Dhanasekaran and in fact, the Second Respondent had issued a Legal Heir Certificate in their favour on 26.06.2012. However, the Second Respondent by passing the impugned order, on 19.11.2012, had rejected the First Petitioner's application seeking issuance of Legal Heir Certificate in respect of the deceased daughter on the ground that she was married. Hence, the Petitioners have filed the present writ petition.

6. At this juncture, this Court, has perused the impugned order, dated 19.11.2012, passed by the Second Respondent, by means of memo and is of the considered view that the Second Respondent had stated that he had examined the undated petition of the First Petitioner seeking issuance of Legal Heir Certificate and further, rejected the same by assigning reason to the effect that the Petitioners' daughter was married and therefore, the certificate in question could not be issued. Such a reasoning of the Second Respondent/Tahsildar, Madurai North Taluk, Madurai, is clearly unsustainable in the Eye of Law, because of the simple reason that the writ Petitioners, as parents of the deceased daughter Niruba, are entitled to claim Legal Heir Certificate in respect of the death of their daughter, in the manner known to Law and in accordance with Law. In fact, for entertaining the undated petition of the First Petitioner, father of the deceased Niruba, is perfectly maintainable in the Eye of Law, as opined by this Court. Further, the reason assigned by the Second Respondent in the impugned order, dated 19.11.2012, to the effect that the Petitioners' daughter Niruba (since deceased), was already married, cannot be a valid and just reason for rejection of the Legal Heir Certificate in question.

7. It cannot be lost sight off that the Petitioners' son-in-law's parents had applied for the issuance of Legal Heir Certificate before the Second Respondent and in fact, they were issued with the Legal Heir Certificate on 26.06.2012 by the very same Second Respondent/Tahsildar, Madurai North Taluk, Madurai District. When the Petitioners' son-in-law's parents were issued with the Legal Heir Certificate by the Second Respondent, on 26.06.2012, the refusal to issue the Legal Heir Certificate as claimed by the First Petitioner and subsequently rejected by the



Second Respondent by passing the impugned order, dated 19.11.2012, is clearly invalid and illegal in the Eye of Law. As such, this Court, to advance the cause of Justice, sets aside the impugned order, dated 19.11.2012, of the Second Respondent/Tahsildar, Madurai North Taluk, Madurai District, and allows the writ petition.

8. In the result, the Writ Petition is allowed leaving the parties to bear their own costs. Consequently, the impugned order 19.11.2012 is set aside by this Court for the reasons assigned in the writ petition. Further, the Second Respondent/Tahsildar, Madurai North Taluk, Madurai District, is directed to pass fresh orders in the subject matter in issue once again by taking up the undated petition of the First Petitioner to file, and to pass a reasoned, speaking order in favour of the Petitioners (ofcourse, after providing necessary opportunity to the Petitioners and others concerned, if any, by adhering to the Principles of Natural Justice, by issuing notice), within a period of four weeks from the date of receipt of a copy of this order. In case, the Second Respondent/Tahsildar, Madurai North Taluk, Madurai District, is in requirement of any Certified copy of relevant record/document from the possession of the First Petitioner/Petitioners, then, he may obtain the same by issuance of notice or memo to the First Petitioner/Petitioners, as the case may be, and if such a request is made on behalf of the Second Respondent, then, it is for the Petitioners to satisfy the said requirement of the Second Respondent. Soon after obtaining or getting copy of relevant record/document, it is open to the Second Respondent to pass necessary fresh orders in the subject matter in issue, within the time as afore stated.

9. With the aforesaid observations and directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To:

1. The District Collector, Madurai District, Madurai.
 2. The Tahsildar, Madurai North Taluk, Madurai.
 - +One cc to Mr.R.Vijayakumar, Advocate, SR.No.48012
 - +One cc to The Special Government Pleader, SR.No.48108
- rj2
RL/5C/3P/DB/19/9/2016