



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.18678 of 2015

Shakila Pasupathy

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in O.Mu. A2/ 14125/2015 dated 27.07.2015 and quash the same as illegal and for directing the 2nd respondent to issue legal heirs certificate of late Palanichamy to the effect that the Petitioner is the only legal heir of late Palanichamy.

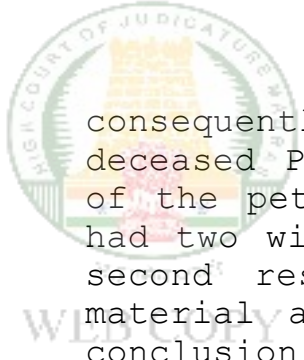
For Petitioner : Mr.S.R.Anbarasu

For Respondents : Mr.C.Selvaraj
Spl. Govt Pleader**ORDER**

The petitioner is aggrieved against the order of the second respondent dated 27.07.2015, through which, the petitioner's request for issuance of legal heirship certificate was rejected on the reason that the deceased Palanisamy had two wives.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3.The case of the petitioner is that she is the daughter of one Palanisamy born through her mother, by name, Rani. It is the further case of the petitioner that the said Rani and the petitioner alone are the legal heirs of the said Palanisamy. It is stated that the said Rani also passed away subsequently and



consequently, the petitioner alone is the legal heir of the deceased Palanisamy. The second respondent rejected the request of the petitioner simply by stating that the deceased Palanisamy had two wives. According to the petitioner, such finding of the second respondent is without any basis, since there was no material available for the second respondent to arrive at such conclusion.

4.The learned counsel appearing for the petitioner submitted that the other two names, namely, Kabir and Rathi, included in the Ration Card of Palanisamy, were removed by stating they are only relatives of the deceased Palanisamy and they also have given independent statement saying that they are not claiming any right or title over the property belonging to the deceased. It is also stated that those two persons have given statement that they are not claiming any legal heirs right of the deceased of Palanisamy. Therefore, it is contended by the learned counsel that the second respondent passed the impugned order without considering all those material facts.

5.The learned Special Government Pleader appearing for the respondents submitted that the second respondent will reconsider the issue once again, based on all the above-stated facts and circumstances and also materials placed before the second respondent.

6.Perusal of the impugned order would show that the request of the petitioner was rejected simply by stating that it appeared to the second respondent that the deceased Palanisamy had two wives. On the other hand, the above-stated facts and circumstances, as projected by the petitioner would indicate that such observation of the second respondent *prima facie* appears to be not correct. Therefore, it is for the second respondent to consider the matter afresh based on all the materials and the facts and circumstances.

7.Accordingly, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the second respondent for considering the claim of the petitioner for issuance of the legal heirship certificate and pass appropriate orders afresh on merits and in accordance with law, based on all the materials and documents placed by the petitioner and also after all the parties concerned. Such exercise shall be done by the second respondent, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Writs)

/True Copy/



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To

1.The District Collector, Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.

+1CC to Mr.S.R.Anbarasu, Advocate Sr.No.6965

+1CC to Spl.Government Pleader Sr.No.6919

GJM/MR/23.2.17-3p-5C

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