



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2017

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN**W.P (MD) No.13452 of 2017**

Amirtham

... Petitioner

-vs-

1. The Tahsildar,
Vadipatti Taluk Office,
Vadipatti, Madurai District.

2. The Revenue Inspector,
Muduvarpatti Sub-Division,
Vadipatti Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned proceedings of the 1st respondent in Proceedings No. Na.ka.No.A.3/1948/2017 dated 13.06.2017 quash the same as illegal and direct the 1st respondent to consider application of the petitioner dated 09.03.2017 in proper prospect and issue the Legal Heirs Certificate of her deceased husband Rajamani, S/o.Muththirulan Servai within a stipulated time.

For Petitioner : Mr.M.Sridharan

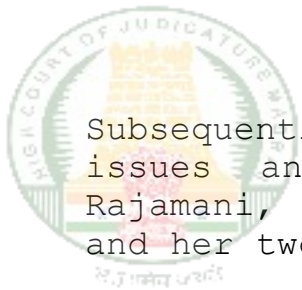
For Respondents : Mr.J.Gunaseelan Muthiah
Govt. Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned proceedings of the 1st respondent dated 13.06.2017 issued in Na.Ka.No.A.3/1948/2017, by which the request of the petitioner for issuance of legal heirship certificate in respect of her deceased husband was rejected on the ground that her husband had two wives. The petitioner also sought a direction to the 1st respondent to consider her application dated 09.03.2017 and issue Legal Heirship Certificate of her deceased husband Rajamani, S/o.Muththirulan Servai.

2. The case of the petitioner in nutshell is as follows:

i) The husband of the petitioner by name Rajamani earlier got married to one Amirthavalli in the year 1969 and their marital relationship ran into rough weather and got separated.



Subsequently, the said Amirthavalli had died leaving behind no issues and thereafter, the petitioner married the deceased Rajamani, who died intestate leaving behind him, the petitioner and her two children;

ii) The petitioner approached the 1st respondent for issuance of legal heirship certificate for suitable mutation of records in the name of the legal heirs, by producing all the required documents, which came to be declined on the ground stated supra. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the impugned order has been passed without application of mind, inasmuch the husband of the petitioner entered into the marriage with the petitioner only after the demise of his first wife and there is no child born through his first wife and therefore, there is no impediment for the 1st respondent to issue legal heirship certificate to the petitioner. Hence, the impugned order is illegal and un-sustainable.

4. The learned Government Advocate appearing for the respondents would contend that during enquiry, it was found that the husband of the petitioner had two wives and therefore, the 1st respondent has passed the impugned order to that effect, which does not warrant any interference whatsoever by this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

6. A perusal of the averments made in the affidavit filed in support of the petition would amply prove the fact that the first wife of the husband of the petitioner had predeceased him and after her death only, the petitioner got married to him. The 1st respondent, without considering all these aspects in a proper perspective, has simply rejected the claim of the petitioner vide present impugned order, which has no legs to stand and is liable to be set aside.

7. In the result, this petition is allowed and the impugned order dated 13.06.2017 is set aside. The petitioner is directed to file all the required documents to the 1st respondent within a period of one week from the date of receipt of a copy of this order and on such filing and upon consideration, the 1st respondent is directed to issue the legal heir certificate to the petitioner within two weeks thereafter. No costs.

Sd/-

Assistant Registrar



To:

1. The Tahsildar,
Vadipatti Taluk Office,
Vadipatti, Madurai District.

2. The Revenue Inspector,
Muduvarpatti Sub-Division,
Vadipatti Taluk,
Madurai District.

+1cc to M/S.M.SRIDHARAN, Advocate SR.No.84430
+1cc to Special Government Pleader, SR.No.84651

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MAS/SKN-RSK/SAR2:07.11.2017:3P-5C

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