



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE **V. PARTHIBAN**

W.P. (MD) No.3917 of 2017

and

W.M.P (MD) No.3094 of 2017

M.Arun

: Petitioner

Vs.

The Tahsildar,
Taluk Office,
Nanguneri,
Tirunelveli District.

: Respondent

Prayer : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the communication in O.Mu.A2/6194/2016 dated 24.08.2016 and quash the same and consequently direct the respondent to issue the legal heir certificate by conducting proper enquiry as per law by considering the request of the petitioner.

For Petitioner

: Mr.S.Siva thilakar

For Respondent

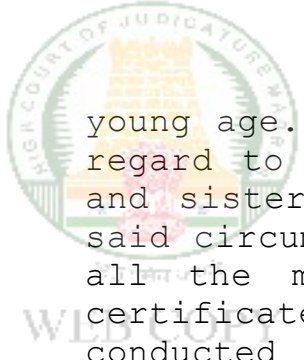
: Mr.M.Alagadevan

Special Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order dated 24.08.2016 and seeking a direction to the respondent to issue the legal heirship certificate by conducting proper enquiry as per law by considering the request of the petitioner.

2. It is stated that the petitioner's parents married as per Christian customary rites on 21.08.1985. Out of their wedlock, the petitioner and his brother, namely, Karthi and his sister, namely, Sridevi were born. Subsequently, the marriage ended in failure. The divorce application in I.D.O.P.No.33 of 2003 was filed by the petitioner's mother before the I Additional District Court, Tirunelveli, to dissolve the marriage held on 21.08.1985. The said IDOP was ordered and the divorce was granted. After the dissolution of marriage, the petitioner and his brother and sister were residing with her mother and in the meantime, the petitioner's father died on 27.10.2014 leaving
<https://hcservices.courts.gov.in/hcservices/> legal heirs as stated above. Subsequently, the petitioner's elder brother also died due to heart attack at the



young age. According to the petitioner, there is no dispute with regard to the fact that the petitioner and his deceased brother and sister are the legal heirs of their parents. In the above said circumstances, the petitioner made a representation enclosing all the materials to the respondent to issue legal heirship certificate to his family. Thereafter, the respondent official conducted an enquiry and issued the impugned order dated 24.08.2016 refusing to issue legal heirship certificate on the ground that the petitioner's parents had obtained decree of divorce and therefore, the application for issuance of legal heirship certificate cannot be considered. Challenging the same, the present writ petition has been filed.

3. Heard Mr.S.Sivathilakar, learned counsel appearing for the petitioner and Mr.M.Alagadevan, learned Special Government Pleader appearing for respondents.

4. The learned counsel appearing for the petitioner would contend that the fact of obtaining the divorce by the petitioner's parents cannot be a ground for refusing to issue of legal heirship certificate. The children born from wedlock cannot be denied the status of legal heirs because of decree of divorce obtained by the parents of the petitioner. Such position taken by the respondent is preposterousness and contrary to the settled legal position. The status of the petitioner and his sister and brother cannot be changed merely because the parent of the petitioner had obtained decree of divorce. They are indeed legal heirs of their parents. Therefore, I do think that the reason stated in the impugned order can be sustained in law.

5. Accordingly, the writ petition is allowed and the impugned order is set aside. The respondent is directed to consider the claim of the petitioner on merits and in accordance with law without reference to the decree of divorce granted to the parents of the petitioner. On being satisfied with in all other aspects, the respondent is directed to issue legal heirship certificate to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C)

/True copy/

Sub Assistant Registrar



To

The Tahsildar,
Taluk Office,
Nanguneri,
Tirunelveli District.

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+1cc to M/S.S.SIVA THILAKAR, Advocate SR.No. 14024
+1cc to Special Government Pleader, SR.No.14382

W.P. (MD) No.3917 of 2017
13.03.2017

JM/RSK/28.03.2017/3P/4C