

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 21.07.2017

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THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM**W.P. (MD) No. 4479 of 2017**

WEB COPY

Kannammal

... Petitioner

Vs.

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

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order in ஒ.பு.2241/17(அ2), dated 28.02.2017 passed by the respondent and quash the same and consequently, direct the respondent to issue legal heir certificate based on the petitioner's application, dated 25.01.2017.

For Petitioner : Mr.R.Vinoth Bharathi.

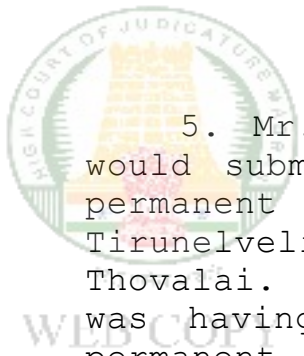
For Respondent : Mr.G.Muthukannan
Government Advocate.**O R D E R**

This writ petition has been filed seeking a writ of Certiorarified Mandamus calling for the records relating to the impugned order in ஒ.பு.2241/17(அ2), dated 28.02.2017 passed by the respondent and quash the same and consequently, direct the respondent to issue legal heir certificate based on the petitioner's application, dated 25.01.2017.

2. Mr.G.Muthukannan, learned Government Advocate takes notice for the respondent.

3. By consent, the writ petition itself is taken up for final disposal.

4. The case of the petitioner is that she is the legally wedded wife of deceased Kamatchinathan and the marriage was performed in Papanasam temple in the year 1969 and a son was born to them during the wedlock. The petitioner would further state that her husband was working in Ganapathy Middle School, Pappankulam as a Secondary Grade Teacher and during that time, he developed illicit intimacy with one Kasthuri and shifted his residence to Thovalai Taluk, Kanyakumari District. The petitioner's husband died on 01.12.2011. Since the petitioner being the legal heir of her husband, applied for legal heir certificate. However, the respondent rejected the said application on the ground that the petitioner's husband was a permanent resident of Thovalai Taluk, Kanyakumari District.



5. Mr.R.Vinoth Bharathi, learned Counsel for the petitioner would submit that the petitioner and her deceased husband were permanent residents of North Pappankulam, Ambasamudram Taluk, Tirunelveli District and her husband was temporarily residing at Thovalai. It is further submitted that the petitioner's husband was having Aadhaar Card and Votor Identity Card wherein his permanent residence comes within the jurisdiction of the respondent, however, without considering those documents, the impugned order came to be passed.

6. Mr.G.Muthukannan, learned Government Advocate appearing for the respondent, on instructions, would submit that during enquiry, the petitioner has not produced the relevant documents to prove the permanent residence of his husband and if the petitioner approaches the respondent with all necessary documents, appropriate orders will be passed afresh.

7. Considering the facts and circumstances of the case and in view of the rival submissions, this Court is of the view that the impugned order dated 28.02.2017 passed by the respondent is liable to be set aside.

8. Accordingly, this writ petition is allowed and the impugned order dated 28.02.2017 passed by the respondent is set aside and the matter is remitted to the respondent for passing appropriate orders afresh on the claim of the petitioner after providing due opportunity of hearing to the petitioner as well as interested parties, if any. Such exercise shall be done within a period of six weeks from the date of receipt of a copy of this order. The petitioner is also directed to submit all the necessary documents in support of her claim to the respondent forthwith. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

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

+1cc to M/S. R.VINOTH BHARATHI, Advocate, SR.No.66923.
+1cc to Special Government Pleader, SR.No.67313.

W.P. (MD) No.4479 of 2017
21.07.2017