



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

**W.P(MD)No.5308 of 2017
and W.M.P. (MD) No.4263 of 2017**

A.Paramasivan

.. Petitioner

Vs

1. The District Collector,
Madurai.

2. The Revenue Divisional Officer,
Melur Camp,
Othakadai,
Madurai.

3. The Thasildhar,
Madurai South Taluk,
Madurai.

4. A.Thangavelan

.. Respondents

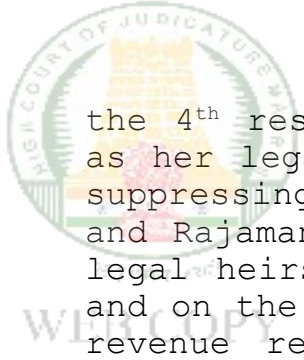
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 16.12.2016, in proceedings Na.Ka.No.3482/2016/B3 quash the same as the same is arbitrary, ultravires, and consequentially direct the 2nd respondent to issue legal heirship certificate including the petitioner, and Balsubramanian, Muniammal, Rajamani.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent R1 to R3 : Mr.K.Maheshraja
Government Advocate

ORDER

The petitioner has approached this Court seeking quashment of the proceedings of the second respondent in Na.Ka.No.3482/2016/B3 dated 16.12.2016, and to direct the 2nd respondent to issue legal heirship certificate including the petitioner, Balsubramanian, Muniammal and Rajamani.

2.According to the petitioner, his father is one Arumugam, who was working in Southern Railway and he died on 24.07.1978, leaving behind the petitioner, the 4th respondent herein, one Muniammal, Balasubramanian, Muniammal, Rajamani, Murugesan and Palraj. Their mother Muniammal died on 13.10.2010 leaving behind the petitioner,



the 4th respondent, Muniammal, Balasubramanian, Rajamani and Palraj as her legal heirs. According to the petitioner, the 4th respondent suppressing the fact that the petitioner, Balasubramanian, Muniammal and Rajamani are legal heirs of Muniammal had chosen to obtain the legal heirship certificate from the third respondent on 18.03.2015 and on the basis of legal heirs certificate attempted to mutate the revenue records of the property belonging to the family. After coming to know about the said attempt by the 4th respondent, the petitioner has presented a representation on 15.04.2016 to the first respondent. The second respondent has passed the impugned order dated 16.12.2016, rejecting the request of the petitioner. According to the impugned order, the rival claimants have not produced proper and necessary documents and therefore, it directed the parties to approach the Court for getting necessary relief. Assailing the said order, the present writ petitioner is before this Court with the present Writ Petition.

3. Heard Mr.R.G.Shankar Ganesh, the learned counsel appearing for the petitioner and Mr.K.Mahesh Raja, the learned Government Advocate appearing for the respondents 1 to 3.

4. Since the issue is one of issuance of legal heirship certificate and there seems to be rival claims as between the parties the second respondent rightly directed the petitioner to approach appropriate court for redressing his grievance. But filing Writ Petition by the petitioner invoking Article 226 of the Constitution of India cannot be a proper remedy, since the issue involves adjudication of disputed question of facts.

5. In such view of the matter, the only proper remedy available is before appropriate Civil Court and establish his right, namely, he should obtain a declaration in support of his claim. In such view of the matter, I am of the view the Writ Petition is not maintainable as far as the issues which are raised in this writ petition.

6. Therefore, the Writ Petition fails and therefore, the same is dismissed. Consequently, connected Miscellaneous Petitions is also dismissed. There is no order as to costs.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Revenue Divisional Officer,
Melur Camp, Othakadai, Madurai.



3.The Thasildhar,
Madurai South Taluk,
Madurai.

+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 18202

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate, SR No. 18118

SJ

PSM/JC/SAR4/13.04.2017/3P/6C

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