

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7686 of 2018

Mrs.Nirmala Devi

W/o late A.C.Chinna Durai

.. Petitioner

-vs-

1. The Tahsildar
O/o the Tahsildar
Pollachi Taluk
Pollachi
Coimbatore District

2. The District Collector
O/o the District Collector
Coimbatore District

3. Mrs.Bhanumathi

4. Mrs.Padmavathy

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent vide legal heir certificate No.Pa.Mu.7991/14/A1 dated 3.8.2014 issued in favour of third and fourth respondents and quash the same and direct the first respondent to issue a legal heir certificate in favour of the petitioner after verification of the records.

For Petitioner :: Mr.S.Sundar

For Respondents :: Mr.S.N.Parthasarathy
Government Advocate for R1 & 2

ORDER

This writ petition has been directed against the impugned order passed by the Tahsildar, Pollachi issuing the legal heirship certificate.

2. Learned counsel for the petitioner submitted that the petitioner is the legally wedded wife of A.C.Chinna Durai, who is the son of the fourth respondent. After the lawful marriage

with A.C.Chinna Durai on 3.12.76, they had a daughter by name Priya. Since the factum of her husband's mental illness was suppressed at the time of marriage, the petitioner came to know about her husband's mental illness later. However, tolerating for about ten years, she lived with him. While so, one day, when the petitioner by inadvertence failed to administer proper medicine to her husband, his mental illness got aggravated. Subsequently, he was taken to hospital. In view of the aggravated problem/disease said to have been caused by the petitioner's negligence in not properly administering the medicine, she was thrown out of the matrimonial home. Since the fourth respondent and her husband were adamant and did not permit the petitioner to enter into her matrimonial house, she came to her parental home and lived separately for a long time. Her daughter was also taken care of by her brother and she was also given in marriage. When the matter stood as above, without the knowledge of the petitioner, her husband A.C.Chinna Durai got married and the second wife of A.C.Chinna Durai has also obtained a legal heirship certificate suppressing the true fact, which is liable to be cancelled. Therefore, the petitioner has come to this Court challenging the legal heirship certificate.

3. But this Court is able to see that the petitioner has wrongly come to this Court for the following reasons. First of all, the learned counsel for the petitioner submitted that after the petitioner left her matrimonial home citing her husband's mental illness, he got married and that factum was not brought to her notice. Secondly, the second wife of A.C.Chinna Durai also got a legal heirship certificate, is also unacceptable to this Court. When the petitioner pleads before this Court that she was unaware of the marriage that took place between her husband and another lady, it is not known why the petitioner has kept quiet without taking legal remedy against the second marriage. Moreover, the averments made in the affidavit also show that after contracting the second marriage, her husband also has got a child by name Aparna. But the petitioner, till date, has not even questioned the second marriage that took place between her husband and another lady. Therefore, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Tahsildar
O/o the Tahsildar
Pollachi Taluk
Pollachi
Coimbatore District
2. The District Collector
O/o the District Collector
Coimbatore District

+2cc to Mr.S.SUNDAR, Advocate, S.R.No. 24440

W.P.No.7686 of 2018

RJ(CO)
TR(17/04/2018)



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