

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.11466 of 2017

and

WMP.No.12447 of 2017

G.Revathi

... Petitioner

vs.

1.The Revenue Divisional Officer,
Namakkal Division,
Namakkal.

2. The Tahsildar,
Rasipuram Taluk,
Namakkal District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the order passed by the Revenue Divisional Office,r Namakkal Division, Namakkal, the 1st respondent herein vide his proceedings No.O.Mu.7580/2016(A3) dated 22.11.2016 and quash the same as illegal, arbitrary, unreasonable being violative of the rules and principles of natural justice and thereby direct the 1st respondent to issue "Destitute Widow Certificate" to the petitioner.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.D.Suriyanarayanan,
Additional Government Pleader

ORDER

The petitioner is aggrieved against the order of the first respondent dated 22.11.2016 rejecting her request for issuance of destitute widow certificate only on the reason that the petitioner is having property worth about Rs.5 lakhs.

2. Heard both sides and perused the respective pleadings filed by the parties to this writ petition.

3. The first respondent has chosen to reject the claim of the petitioner for issuance of destitute widow certificate by stating that she has property worth about Rs.5 lakhs and such fact came to the notice of the first respondent in an enquiry conducted by the officials. Except stating so vaguely, the first respondent has not given any material details or particulars as to how such conclusion was arrived at, that too, based on the enquiry alleged to have been conducted. Therefore, it is seen that the order of the first respondent is bereft of material particulars and consequently, it is to be treated as a non-speaking order. Needless to say that merely stating that the petitioner is in possession of property worth Rs.5 lakhs itself is not sufficient unless the first respondent gives further details of such property and the value of the same, especially, when the petitioner disputes such reason/claim.

4. In fact, it is stated by the petitioner in the rejoinder affidavit at paragraph No.6 as follows:

I further submit that, I had again made an application to the 1st respondent bring it to his notice the above facts and the value of the property etc. To my shock and surprise, the 1st respondent rejected my application alleging that, I possess properties worth Rs.5,00,000/- based on the 2nd respondent's report. As stated above, I am neither in possession and enjoyment of the said lands nor I am cultivating the same nor allowed to do so and I am not receiving any income from that source and the property is also not that much worthy. However, in the counter affidavit filed by the 1st respondent it is stated that,

"after due enquiry it was rejected on the ground that, $\frac{1}{2}$ share of the landed properties stood at her husband's name and a storied building worth about 10,00,000/- in Vaireechittipalayam Village, Thuraiyur Taluk, Trichy District."

is factually incorrect and without application of mind since, it is not $\frac{1}{2}$ share but is only $\frac{1}{3}$ rd share devolve upon my husband on the death of my father-in-law as stated above on his three legal heirs namely 1)Valliammal, my Mother-in-law, 2) Satheesh Kumar, my Husband and 3) Saravanan, my Brother-in-law, each entitled for $\frac{1}{3}$ share. Accordingly, out of 1.28 Acres, my husband is entitled to 43 cents only. Again on my husband's death, his share of 42 cents devolved upon his 3 Legal heirs namely 1) myself, 2) my daughter and 3) my Mother-in-law each entitled for $\frac{1}{3}$ share. i.e., 14 cents each. The guideline

value of one cent of land in that particular survey number i.e. 175/3 is Rs.5,30,000/- per hectare i.e. Rs.2,12,000/- per Acre and Rs.2,120/- per cent. Hence, the value of 14 cents of my share comes to Rs.29,680/- only.

5. The above statement made by the petitioner clearly indicates that the findings arrived by the first respondent to reject the claim of the petitioner is factually incorrect and hence, it cannot be sustained. However, the petitioner has to substantiate her claim before the first respondent by producing the material documents. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to pass fresh orders on merits after considering the petitioner's above contentions raised before this Court and also by giving her due opportunity of personal hearing. The petitioner is given liberty to place all material documents before the first respondent in support of her claim. The first respondent shall pass orders afresh as directed supra within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi

To

1.The Revenue Divisional Officer,
Namakkal Division,
Namakkal.

2. The Tahsildar,
Rasipuram Taluk,
Namakkal District.

+1cc to Mr.AR.SURESH, Advocate, S.R.No. 9352
+1cc to the Government Pleader, S.R.No. 9779

W.P.No.11466 of 2017

VG II(CO)
TR(22/02/2018)