

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.11.2018
CORAM
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARRAYANA
W.P.No.21755 of 2018
& WMP.Nos.25512 to 25514 of 2018

Muthuvel

... Petitioner

Vs

- 1.The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Udayarpalayam,
Ariyalur District.
- 2.The Tahsildar,
Senthurai Taluk,
Senthurai,
Ariyalur District
- 3.The Block Educational Officer-2/Additional Assistant
Elementary Educational Officer,
Sendurai,
Ariyalur District-621 714
- 4.The District Educational Officer,
District Educational Office,
Ariyalur.

5.Baskar

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records pertaining to the Legal Heir Certificate issued by the second respondent vide certificate No.TN-720180413562 dated 21.04.2018, and quash the same and further directing the first respondent to issue a fresh Legal Heir Certificate of the petitioner's deceased wife namely Susila by including the name of the petitioner alongwith the fifth respondent.

For Petitioner : Mr.G.Pugazhenth

For Respondents : Mr.V.Shanmugasundaram, Spl.G.P.
R1 to R4

O R D E R

Heard, Mr.G. Pugazhenth, the learned counsel appearing for the petitioner and Mr.V. Shanmugasundaram, the learned Special Government Pleader, who accepts notice on behalf of the respondents.

2. With consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

3. The challenge in this writ petition is to the Legal Heir Certificate issued by the second respondent on 21.04.2018 in Certificate No. TN-720180413562, wherein, the name of the petitioner has been omitted. The case of the petitioner is that he got married to one Susila on 25.11.1987, who was physically handicapped. She was working as Headmistress in the Panchayat Union School. She died on 13.03.2018. Out of their wed-lock, a son namely Baskar, who is the fifth respondent herein was born. Thereafter, the wife of the petitioner died leaving behind her husband her i.e., the petitioner herein and the fifth respondent herein namely Baskar, as her legal heirs.

4. It appears that the fifth respondent had applied for the Legal Heirship Certificate before the second respondent and the same was issued on 21.04.2018 showing only the fifth respondent as the sole legal heir of the deceased Susila, wherein, the petitioner's name has been omitted. Hence, this petition is filed challenging the legal Heirship certificate issued only in the name of the fifth respondent and for a further direction to include the name of the petitioner also in the said Certificate.

5. Counter affidavit has been filed by the second respondent, wherein, in paragraph no.6, it is specifically stated that at the time of enquiry, the second respondent came to know that the petitioner was not living in the village, and hence, they could not get any evidence about him. Further, the family members of the fifth respondent have not given any correct particulars about the petitioner. Hence, the legal Heirship certificate was issued only in the name of the fifth respondent.

6. It is the bounden duty of the second respondent to make an enquiry about the legal heirs available. If the fifth respondent has not given the correct particulars, without collecting the correct particulars from the Village Administrative Officer or the Revenue Inspector, the second respondent ought not to have issued the legal heirship certificate in the name of the fifth respondent alone. The act of the Tahsildar in issuing legal heirship certificate omitting the correct particulars of the other legal heirs led to hardship to the petitioner. The petitioner had also filed his Family Card, wherein, the name of his deceased wife and also the name of the fifth respondent are found. He has also produced the Voter's I.D. Card of the fifth respondent, wherein, the father of the fifth respondent was shown as the petitioner's name. The Adhar Card of the deceased Susila has also carries the name as Susila Muthuvel. When these evidences are

available, the second respondent had issued the certificate only in the name of the fifth respondent for the reasons best known to him.

7. In view of the above facts and circumstances, the second respondent is directed to recall and cancel the legal heirship certificate issued by him on 21.04.2018 in Certificate No.TN-720180413562 and re-issue the legal heirship certificate including the name of the petitioner, after issuing notice to him ; after conducting due enquiry on merits and in accordance with law ; after affording an opportunity of personal hearing and after considering the documents and evidence that may be produced by the parties concerned. Such exercise may be completed within a period of four weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

To

- 1.The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Udayarpalayam,
Ariyalur District.
- 2.The Tahsildar,
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Senthurai,
Ariyalur District
- 3.The Block Educational Officer-2/Additional Assistant
Elementary Educational Officer,
Sendurai,
Ariyalur District-621 714
- 4.The District Educational Officer,
District Educational Office,
Ariyalur.

+1cc to Mr.G.Pugazhenthii , Advocate SR.No. 82399

+1 CC TO GOVERNMENT PLEADER SR.NO. 82917

W.P.No.21755 of 2018

ASK(09/01/2019)