

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.11.2018
CORAM
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
W.P.No.31389 of 2018
and
W.M.P.No.36575 of 2018

Nora V. Subramani

.. Petitioner

versus

1. The District Collector,
Chennai District,
No.62, Rajaji Salai,
Chennai - 600 001.
 2. The Revenue Divisional Officer,
Egmore Division,
Guindy, Chennai - 600 032.
 3. The Tahsildar,
Mylapore - Triplicane Taluk,
Chennai - 600 028.
 4. N. Balakrishnan
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order dated 23.07.2018 in proceeding No.Proc.No.A1/1230/2018, quash the same and consequently forbear the 2nd respondent from proceeding further with the enquiry in Proceeding No.Proc.No.A1/1230/2018 on his file.

For Petitioner : Mr.S.Parthasarathy, Senior Counsel
for Mr.S.Karunamoorthy

For RR 1 to 3 : Mr.V.Shanmugasundar
Special Government Pleader

O R D E R

By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The prayer in the writ petition is to call for the records of the second respondent relating to the impugned order dated 23.07.2018 in proceeding No.Proc.No.A1/1230/2018, quash the same and consequently forbear the second respondent from proceeding further with the enquiry in Proceeding No.Proc.No.A1/1230/2018 on his file.

3. The petitioner claims to be the wife of one late Mr.N.V.Subramaniam having married him under the Special Marriage Act on 08.06.1967. There is no issue out of the said wedlock. The petitioner herself was working in United India Insurance Company as a Senior Assistant. The husband of the petitioner died on 01.09.2017 leaving behind the petitioner as the only legal heir. Therefore, she applied for legal heir certificate before the third respondent-Tahsildar on 09.10.2017 and obtained certificate on 08.11.2017 after due verification and enquiry.

4. It is stated that there are some properties left by her husband, which are self acquired one. It appears that the fourth respondent, who is the brother of the deceased husband of the petitioner had filed an appeal before the second respondent-R.D.O. challenging the issuance of the legal heir certificate in favour of the petitioner. The second respondent on 23.07.2018 in Proceedings No.Proc.No.A1/1230/2018 had granted stay of the usage of the legal heir certificate issued by the Tahsildar. Aggrieved by the said order, the above writ petition is filed.

5. It is the contention of the petitioner that the legal heir certificate was issued by the Tahsildar after due enquiry and considering all the documents and evidence. The fourth respondent, who is only the Class-II heir has preferred the appeal and obtained an order of stay and put the petitioner into hardship. As the stay has been granted only by the Revenue Divisional Officer (R.D.O.), the same has to be vacated only by him. However, it is pending from July, 2018,

6. Considering the above submissions, this Court, directs the second respondent to dispose of the appeal preferred by the fourth respondent in proceedings in Proc.No.A1/1230/2018 on its file within a period of four weeks from the date of receipt of a copy of this order after issuing notice to the petitioner and the fourth respondent herein and also affording due opportunity of hearing to the petitioner and fourth respondent herein as well as any of the interested parties.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The District Collector,
Chennai District,
No.62, Rajaji Salai,
Chennai - 600 001.

2. The Revenue Divisional Officer,
Egmore Division,
Guindy, Chennai - 600 032.

3. The Tahsildar,
Mylapore - Triplicane Taluk,
Chennai - 600 028.

+1cc to Mr.S.Karunamoorthy, Advocate, S.R.No.81193

+2cc to Mr.S.Karunamoorthy, Advocate, S.R.No.8119(13/12/2018)

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GSP(12/12/2018)

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