



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 21.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

W.P.No.3584 of 2018

and

W.M.P.(MD)No.3723 of 2018

M.Jebarathna

... Petitioner

Vs.

1. The Sub Collector,
Office of Sub Collector,
Tuticorin District,
Beach Road,
Tutuicorin.
2. The Tahsildar,
East Great Cotton Road,
Tuticorin, Tuticorin District.

3.A.Thangarathi

...Respondents

Prayer:Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned order passed by the 1st respondent dated 17.01.2018 in Na.Ka.A2/4430/2017 and quash the same and consequently direct the respondents 1 and 2 to delete the name of the third respondent from the legal heir certificate issued by the 2nd respondent dated 20.12.2016 in P.Mu.Aa4/9092/2016 within the time frame stipulated by this Court.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mrs.J.Padmavathy Devi (for R1 to R2)
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent and to direct the respondents to delete the name of the third respondent from legal heir certificate issued by the second respondent.

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

2.According to the petitioner, she is the wife of one Maniraj, who died on 11.06.2006. The third respondent is the mother of the



deceased. After the death of her husband, the petitioner had applied for a legal heir certificate before the second respondent / Tahsildar, and the second respondent also issued a certificate on 20.12.2016, including the name of the third respondent / the mother of the deceased, as one of the legal heirs. Thereafter, the petitioner filed an application before the first respondent to delete the name of the third respondent from the legal heir certificate on the ground that the mother of the deceased cannot be considered as a legal heir of the deceased. But, the said application was rejected by the first respondent on the ground that as per the circular issued by the Government, the mother of the deceased / the third respondent herein, cannot be deleted from the legal heir certificate and directed the petitioner to approach the competent Civil Court. Now, challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner submitted that under Section 33 of the Indian Succession Act, 1925, the third respondent being the mother of the deceased is not entitled to get any share in the property, hence, she cannot be considered as legal heir of the deceased. Apart from that as per the circular issued by the Government, there is no provision for deleting the name of the third respondent.

4.On a perusal of the impugned order passed by the first respondent, it could be seen that already a legal heir certificate has been issued by the second respondent, wherein the third respondent / the mother of the deceased has been shown as one of the legal heirs of the deceased. Now, it is the contention of the petitioner that as per Section 33 of the Indian succession Act, third respondent is not entitled to have any share in the Property, in the above circumstances, the third respondent cannot be included as legal heir of the deceased person, hence the petitioner is now disputing the inclusion of the third respondent in the legal heir certificate. Since it is a disputed question, and the disputed question cannot be decided by the Revenue Authorities, and the petitioner has to necessarily approach the Civil Court seeking suitable relief. The first respondent considering the same, rightly directed the petitioner to approach the Civil Court to get suitable remedy. Hence, I find no illegality or irregularity in the order passed by the first respondent. Hence, the writ petition stands dismissed. No costs. Consequently, W.M.P.(MD)No.3723 of 2018 is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

1. The Sub Collector,
Office of Sub Collector,
Tuticorin District,
Beach Road,
Tuticorin.

2. The Tahsildar,
East Great Cotton Road,
Tuticorin, Tuticorin District.

+ 1 cc TO Mr. R. Vijayakumar, Advocate in SR No. 50106
+ 1 cc TO The Special Government Pleader in SR No. 50961

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AE/KKR/SAR4/09.03.2018/3P/5C

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