



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.4828 of 2018

and

WMP(MD)No.4840 of 2018

Minor Sanjana @ Sakthipriya
rep.by her guardian
Sudha

... Petitioner

Vs.

1. The District Collector,
Madurai District.

2. The Tahsildar,
Vadipatti Taluk,
Madurai District.

... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating with the order passed by the second respondent in O.Mu.No.A3/2070/2018 dated 02/03/2018 and quash the same as illegal and in consequence to direct him to issue the legal heir certificate of the deceased Nagarajan in the name of Minor Sanjana @ Sakthipriya as she is the daughter and only legal heir of him.

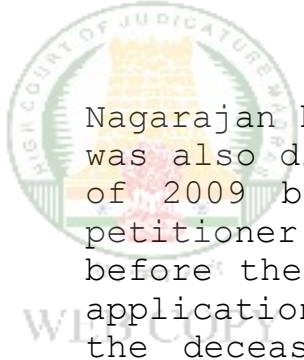
For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.P.Kanni Devan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the Tahsildar, rejecting the petitioner's application to issue legal heir certificate.

2.According to the petitioner, the petitioner is the daughter of one Nagarajan, born through his first wife Kavitha. The said Nagarajan was a Government servant and he expired on 19.06.2007. The marriage between her father and mother Kavitha was dissolved by an order dated 25.04.2005 passed in HMOP No.134 of 2004 by the Sub Court, Periyakulam. Thereafter, the above said



Nagarajan had a second marriage with one Lakshmi and that marriage was also dissolved on 27.01.2016 by an order passed in HMOP No.553 of 2009 by the Family Court, Madurai. After the death of the petitioner's father, the petitioner has filed an application before the second respondent seeking legal heir certificate. That application has been rejected by the Tahsildar on the ground that the deceased had two wives, as the deceased Nagarajan was not residing in the petitioner's village for more than ten years, the particulars of the legal heirs of the deceased Nagarajan could not be ascertained. Challenging the same, this writ petition has been filed.

3.The learned counsel appearing for the petitioner submitted that the second respondent without conducting any enquiry and without issuing notice to the petitioner, has mechanically rejected the application based on the report submitted by the Revenue Inspector. The learned counsel further submitted that the petitioner is the daughter of the deceased Nagarajan, born through his first wife and the second wife has no issues. In the above circumstances, the petitioner is the only legal heir of the deceased Nagarajan and she is entitled to get legal heir certificate.

4.It is the admitted case of the petitioner that the petitioner's deceased father Nagarajan had two wives and he divorced both wives, and it is not known whether the deceased Nagarajan had any legal heir through his second wife. Apart from that, as per the Circular issued by the Government in Circular No.11/2017, Rc.No.RA.5(3)/180/2017, dated 09.08.2017, when the deceased had more than one spouse and there is any dispute regarding the properties, then the parties should be directed to approach the civil Court for issuance of legal heir certificate. The relevant portion of the said Circular reads as follows:

"5. Legal Heirship Certificate:

(a) Generally, if the head or a member of the family expires, the next legal heir to the deceased, like wife, or husband or son, father/mother shall apply for heirship certificate for transfer of movable or immovable properties, sanction of family pension, etc. The death certificate in original obtained from the competent authority should accompany the application which should contain court fee stamp of Re.1/-. The application shall be forwarded to the Revenue Inspector to enquiry all legal heirs, neighbours, other villagers and the Village Administrative Officer in detail. On receipt of report a certificate mentioning the names of all natural legal heirs will be issued by the Taluk/Tahsildar (G.O. Ms. No. 2906, Revenue, dated 4.11.1981).

(b) The Tahsildar can advise the applicant to approach civil court for issue of a certificate in the absence of a



direct legal heir, as in the following cases.

i) More than one spouse, their children and enquiry reveals dispute in particular of properties.

ii) In the case of issue of a certificate to the heirs of the person who have been away from the family for more than seven years.

iii) If they are not residents in the Taluk but are residents elsewhere and when they do not appear for enquiry and

iv) When the deceased has no child or his/her own and another child is brought up.

(c) The instructions issued in letter (Ms) No.1534, Revenue dated 28.11.1991 shall be followed.

(d) The certificate shall be issued within fifteen days in the form prescribed in the letter (Ms) mentioned above."

5. In the instant case, admittedly, the deceased Nagarajan had two wives and it is not known whether the deceased had any issues through his second wife. In view of the same, the Tahsildar is not in a position to issue the legal heir certificate as required by the petitioner. Hence, he has rightly rejected the application filed by the petitioner. I find no infirmity in the order passed by the second respondent/Tahsildar. Hence, this writ petition is dismissed. No costs. Consequently, WMP(MD)No.4840 of 2018 is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District.

2. The Tahsildar,
Vadipatti Taluk,
Madurai District.

+ 1 cc TO Mr.R.Suriyanarayanan , Advocate in SR No. 53496
+ 1 cc TO The Special Government Pleader in SR No. 53918

mj

AE/KKR/SAR1/20.04.2018/3P/5C