



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.7593 of 2018

and

W.M.P.No.7222 of 2018

Sivaraman

... Petitioner

vs.

The Tahsildar,
Pudukottai Taluk,
Pudukottai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent relating to O.Mu.A5/9577/2017 dated 24.11.2017 and to quash the same and consequently directing the respondents herein to issue Class -I Legal heir Certificate of late VL.L.Valathappa Chettiar by including the petitioner's name as son on the basis of the petitioner's application dated 13.11.2017,

For Petitioner : Mr.D.Ramesh Kumar

For Respondent : Mr.V.Anand,
Government Advocate

O R D E R

Challenging the rejection of the petitioner's application dated 24.11.2017 stating that the petitioner does not come under Class- I Legal heir of late VL.L.Valathappa Chettiar, the present Writ Petition has been filed.

2. According to the learned counsel for the petitioner, the petitioner was adopted by late VL.L.Valathappa Chettiar and Angammai Achi through adoption deed dated 08.09.1975. Apart from the petitioner there are no other legal heirs for the late VL.L.Valathappa Chettiar and that his mother Angammai Achi had predeceased his father. The reason adduced by the respondent while rejecting the petitioner's application is that the petitioner being an adopted son will not come under class I Legal heir.

3. This issue has come up for consideration before the

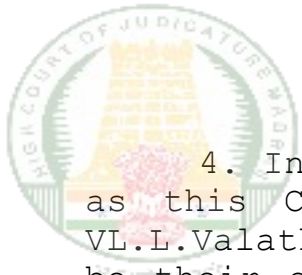


Hon'ble Apex Court in Judgement reported in Dharma Shamrao Agalawe v. Pandurang Miragu Agalawe, 1988 (2)SCC 126, wherein it is held that adopted son therein became a member of the coparcenary, is entitled to claim share in the property. The Judgement of the Hon'ble Apex Court was also considered by this Court in Judgment reported in 2018(1)CTC 814 - M.G.Mamtha -vs- Tahsildhar, Dhenkanikottai Taluk Office, The relevant portion of the said order reads as follows:

11. In fact, the Apex Court relied on the earlier decisions made and reported in Dharma Agalawe v. Pandurang Miragu Agalawe, 1988(2) SCC 126 and Vasant v. Dattu 1987(1) SCC 160, to hold that the adopted son therein became a member of the Coparcenary, entitled to claim share in the property.

12. Persual of the above said provision of law as well the decision of the Apex Court as discussed supra would show without any ambiguity that an adopted child from the date of the legal adoption, becomes the child of adoptive father or mother for all purposes since such child severed his or her ties in the family of his or her birth from the said day onwards. Consequently all the ties of the child are replaced in the adoptive family, is not the child by biological creation, however, it should be born in mind that such adopted child is the child of the adoptive family by legal creation, which status certainly confers on such child all such rights as a biological child in the adoptive family. Once such right is conferred by law, the said child is to be considered, treated, looked into, given the status as the child of the adoptive family, as the prefix 'adopted' is bound to vanish or at least lose its significance any more for any purpose from the day of adoption. Hence, the respondent is not empowered to deny the same and refuse to issue the Legal Heirship Certificate to the second petitioner, as she is to be treated as the child of the deceased Chandrasekar for all purposes and consequently, she becomes the Class I heir of the deceased and thus, entitled to get the same also included in the Legal Heirship Certificate".

The above order is self explanatory.



4. In view of the decision of the Hon'ble Apex Court as well as this Court, the petitioner, being the adopted son of late VL.L.Valathappa Chettiar and his wife Angammai Achi, is deemed to be their class -I Legal heir. However it would be appropriate to point out that such an adoption deed would subject to proof if questioned in any court of law and this Court has not rendered any finding with regard to the validity of the Adoption Deed.

5. With the above observation, the impugned order dated 24.11.2017 is set aside and consequently the respondent herein is directed to issue legal heir certificate of late VL.L.Valathappa Chettiar showing that the petitioner herein is the class-I Legal Heir. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

6. The Writ Petition is ordered accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:
The Tahsildar,
Pudukottai Taluk,
Pudukottai.

+1CC to Mr.D.Rameshkumar, Advocate, Sr.62910

aav

JM/KKR/SAR-III/17.05.2018/3P-3C

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