



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD)NO.742 of 2018
and
C.M.P(MD)Nos.4408 and 4409 of 2018

Minor Sanjana @ Sakthipriya
represented by her guardian
Sudha, W/o.Kalaiselvan,
Sengol Nagar 2nd street,
Old Vilangudi,
Madurai.

:Appellant/Petitioner

.vs.

1.The District Collector,
Madurai District.

2.The Tahsildar,
Vadipatti Taluk,
Madurai District.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.4828 of 2018, dated 07.03.2018.

Prayer in WP(MD). 4828/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating with the order issued by the 2nd respondent made 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 Appellant

:M/s.R.Suriyanarayanan

For Respondents

:Mr.VR.Shanmuganathan
Special Govt.Pleader



JUDGEMENT

[Judgement of the Court was made by K.RAVICHANDRABAABU,J.]

Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents and by consent, the main Writ Appeal itself is taken up for final disposal, as the issue involved in this case is lying in a narrow campus.

2.The appellant is the Writ Petitioner. He was aggrieved against the order of the second respondent, dated 02.03.2018, wherein and whereby, her request for issuance of Legal Heirship Certificate was rejected on the reason that the second respondent was not in a position to ascertain who are all the legal heirs of the deceased father of the Petitioner, since he had two wives.

3.The learned Single Judge dismissed the Writ Petition by holding that the deceased had two wives and therefore the Tahsildar was not in a position to issue the Legal Heirship Certificate, by relying on a Circular, dated 09.08.2017, issued by the Government.

4.The learned counsel for the appellant submitted that the impugned order was passed by the second respondent without affording an opportunity of hearing to the appellant and without conducting any enquiry in the locality. Therefore, he submitted that the said order was passed mechanically, without ascertaining the factual aspects of the matter, by not conducting proper enquiry. He further submitted that even though the deceased was having two wives, the Petitioner/appellant being the daughter through his first wife and that the deceased did not have any issue through his second wife, are all facts which could have been ascertained by the second respondent, if he had conducted a proper enquiry in that locality.

5.The learned Special Government Pleader appearing for the respondents submitted that the impugned order was passed by the second respondent only because he was not in a position to ascertain the factual aspects of the matter regarding the legal heirs as on date available, in pursuant to the death of the Petitioner's father Nagarajan.

6. We heard both sides.

7.There is no dispute to the fact that the Petitioner made an application before the second respondent for issuance of Legal Heirship Certificate in pursuant to the death of her father Nagarajan. It is true that the deceased was having two wives. But <https://hcservices.hcscourtsonline.hcservices.in>, that itself cannot be a reason to reject the request of the Petitioner for issuance of the Legal Heirship Certificate without conducting any enquiry in that locality, to



ascertain the actual state of affairs as to who are all the legal heirs of the deceased Nagarajan and also to find out whether any dispute is there between them in respect of any property, as referred to in the Circular, dated 9.8.2017.

8.A perusal of the said circular extracted in the order passed by the learned Single Judge itself would go to show that the Tahsildar can advise the applicant to approach the Civil Court for issue of a certificate only under circumstance of absence of a direct legal heir and if the deceased was having more than one spouse, their children are having dispute in respect of particular properties. These factual aspects can be ascertained only if a proper enquiry is conducted by the Tahsildar. Though it is referred to as if a report was submitted by the Revenue Inspector, perusal of the impugned order reveals that no such proceedings is shown in the Reference Column. Therefore, We find that the impugned order of the Tahsildar was passed in a mechanical manner, without application of mind. Consequently, We are inclined to set aside the impugned order and remit the matter back to the second respondent to consider the application of the Petitioner afresh on its own merits and pass orders after conducting due enquiry and also by giving personal hearing to all the parties concerned. Such enquiry shall be conducted by the second respondent in the Petitioner's locality in order to ascertain who are all the legal heirs of the deceased Nagarajan.

9.Accordingly, the Writ Appeal is allowed and the impugned order as well as the order of the learned Single Judge confirming the said order are set aside. Consequently, the matter is remitted back to the second respondent for passing fresh orders on merits and in accordance with law, as directed supra, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Civil Miscellaneous Petitions are closed. No costs.

Sd/
Assistant Registrar (AD-I)

/True copy/

Sub Assistant Registrar

To

- 1.The District Collector, Madurai District.
- 2.The Tahsildar,
Vadipatti Taluk, Madurai District.

+1cc to Mr.R.SURIYANARAYANAN, Advocate, SR.No.64624

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