



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.18409 of 2018

Subbulakshmi

... Petitioner

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Tirubaramkundram Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records pertaining to the impugned rejection order in Na.Ka.No.3903/2018/A, dated 03.07.2018 passed by the second respondent and quash the same and consequently direct the second respondent to issue the legal heir certificate to the petitioner.

For Petitioner : Mr.M.Ramu

For Respondents: Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

The petitioner was the second wife of the deceased K.Pandi. Earlier the said K.Pandi married one Nagarathinam and from their wedlock, they had blessed with three daughters. The said Nagarathinam expired on 22.12.1999. The marriage between the petitioner and the said Pandi had taken place after the expiry of the said Nagarathinam, which has not been disputed. From their wedlock, a daughter was born. On 12.12.2015 the petitioner's husband died leaving behind the petitioner and four daughters as his legal heirs.

2. Being the legal heir of the deceased husband, the petitioner has applied for legal heir certificate to the second



respondent and after enquiry, the application was rejected by the proceedings of the second respondent dated 31.07.2018, on the ground that the petitioner was being the second wife and therefore, she was directed to approach the civil Court to get appropriate reliefs. The said proceedings is put to challenge in this writ petition.

3. When the matter is taken up for hearing, the learned Counsel appearing for the petitioner would submit that the rejection of the petitioner's claim for issuance of legal heir certificate on the stated reason cannot be countenanced either in law or on facts and the same is also contrary to the specific circular issued by the Government dated 09.08.2017. According to the learned Counsel for the petitioner, admittedly the petitioner herein got married to her husband only on the death of his first wife and therefore, the marriage was perfectly legal and valid and therefore, she was entitled to approach the second respondent along with other legal heirs. However, without appreciating the factual circumstances, the second respondent mechanically rejected the claim as if there is a rival claim in regard to the claim of succession to the deceased Pandi.

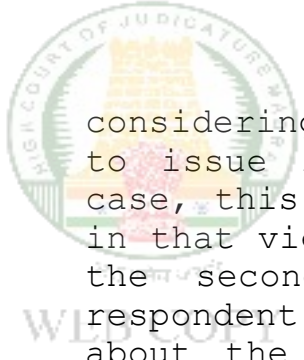
4. The learned Counsel appearing for the petitioner would draw the attention of this Court to Clause 7 of the Circular dated 09.08.2017 stating that the Tahsildar shall not issue legal heir certificate in respect of the claims when more than one wife exists for the deceased. In this case, there is only one wife, who is claiming legal heir certificate along with other daughters and therefore, the circular cannot be applied to the factual matrix of the present case and the claim of the petitioner cannot be denied.

5. Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents.

6. Considering the submissions made by the learned Counsel appearing for the petitioner and also the scope of the Circular dated 09.08.2017, this Court is of the view that the rejection of the petitioner's request dated 31.07.2018 cannot be sustained in law. As rightly contended by the learned Counsel appearing for the petitioner that the marriage between the petitioner and the deceased Pandi took place after the death of his first wife in 1999 and therefore, the marriage between the petitioner and the said Pandi cannot be held to be invalid or illegal. Therefore, it is not for the second respondent to direct the petitioner to approach the civil Court to get appropriate remedies when admittedly there are no rival claims claiming succession to the deceased Pandi.

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

7. In such circumstances, this Court is of the view that the second respondent has abdicated his statutory responsibility in



considering the claim of the petitioner and mechanically refused to issue legal heir certificate. In the circumstances of the case, this Court is satisfied with the claim of the petitioner and in that view of the matter, the impugned order dated 31.07.2018 of the second respondent is hereby set aside and the second respondent is directed to conduct enquiry and on being satisfied about the claim of the petitioner as well as other daughters, issue necessary legal heir certificate to the petitioner. The direction of this Court shall be complied with by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Tirubaramkundram Taluk,
Madurai District.

+ 1 CC TO MR.M.RAMU, ADVOCATE IN SR NO.85166
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.85619

SSL

BU/SKN/SAR-III :12.10.2018 : 3P/5C

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