



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.14709 of 2018

Subramanian

... Petitioner

Vs.

The Tahsildar,
Karaikudi,
Sivagangai District.

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to O.Mu.No.A2/3276/2018, dated 29.05.2018 and to quash the same and consequently, directing the respondent to issue Class-I Legal heir certificate of late Valliyammai Achi by including the petitioner's name 'V.Subramanian' on the basis of the petitioner's application dated 21.02.2018 and to pass such further or other orders.

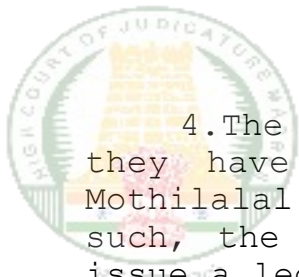
For Petitioner	: Mr.R.M.Arun Swaminathan
For Respondent	: Mr.V.Anand
	Government Advocate

O R D E R

The petitioner's request for grant of legal heir certificate for the death of his Mother viz., Valliyammai Achi, came to be rejected on the ground that he is an adopted son and that his permanent residence is at Salem.

2.The learned counsel for the petitioner submitted that after the death of the petitioner's father, he and his mother shifting the permanent residence to Kandanur Village at Karaikudi and are residing there. He further submits that when the petitioner's father Venkatachalam died, legal heir certificate dated 04.11.2013 was issued, wherein he was shown as legal heir of his late father. The petitioner herein has been validly adopted through a registered adoption deed dated 18.03.1991, through his father Venkatachalam and Valliyammai Achi.

3. Recognising the adoption deed, the Tahsildar at Karaikudi had earlier issued the legal heir certificate for the late Venkatachalam, wherein the petitioner was shown as legal heir, in his capacity as son of Venkatachalam.



4. The learned counsel for the petitioner also submitted that they have valid proof to show that they are now residing at Mothilalal Street, Kandanur Post, Karaikudi Taluk, Karaikudi and as such, the respondent herein would be the appropriate authority to issue a legal heir certificate, in the place the petitioner's mother also died. As such, the respondent may not be justified in rejecting the petitioner's request for issuance of legal heir certificate, evidencing him as one of the legal heirs.

5. The Hon'ble Apex Court in M.G.Mamtha Vs. Tahsildhar, Dhenkanikottai Taluk Office, reported in 2018 (1) CTC 814, had an occasion to deal with the status of an adopted son and had observed 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. Perusal 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 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 her name also included in the Legal Heirship Certificate?"

6. It would be appropriate to point out that in case the adoption deed is questioned before any Court of law, it would be subject to the proof and it is hereby observed that this Court has not rendered any finding with regard to the validity of adoption deed.



7. In view of the same, the impugned order in O.Mu.No.A2/3276/2018 dated 29.05.2018 is set aside and consequently, the respondent herein is directed to conduct a fresh enquiry and issue an appropriate legal heir certificate for the death of the petitioner's Mother Valliyammai Achi, evidencing him as a legal heir. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Tahsildar,
Karaikudi,
Sivagangai District.

+1cc to Special Government Pleader, SR.No. 72996
+1cc to M/S.R.M.Arun Swaminathan, Advocate SR.No. 72929

W.P.(MD) No.14709 of 2018
13.07.2018

das/akv
JM/SKN RSK/SAR 4/27.07.2018/3P/4C