

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKEVALU

W.P. No. 4213 of 2019

V.Mallika

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Collectorate Office,
Kancheepuram - 631 501.

2.The Revenue Divisional Officer,
Kancheepuram,
Kancheepuram.

3.The Tahsildar,
Kancheepuram Taluk,
Taluk Office, Kancheepuram.

... Respondents

Prayer:- Writ petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records comprised in the proceedings of the first respondent dated 24.10.2018 in proceedings Mu. Mu.19622 / 2018 / Y1, in confirming the order passed by the second respondent in proceedings Mu. Mu.493/2018/A5, dated 04.09.2018 and quash the same as arbitrary and illegal and consequently direct the respondents to make necessary corrections and issue a fresh legal heir certificate of Mrs.K.Kaliammal.

For Petitioner : Mr. M. Venkatakrisnan

For Respondents: Mr. R. Venkatesh
Government Advocate

O R D E R

Heard Mr. M. Venkatakrisnan, Learned Counsel appearing for the Petitioner, Mr. R. Venkatesh, Learned Government Advocate, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. This Writ Petition has been filed challenging the order of the First Respondent confirming the order No. Moo. Mu. 19622/2018/Y1 dated 24.10.2018 passed by the Second Respondent rejecting the application made by the Petitioner to include the

name of her husband, viz., Thiruvengadam, as the legal heir of his mother Smt. K. Kaliammal (Mother in-Law of the Petitioner) in her Legal Heirship Certificate on the ground of laches. According to the Petitioner, she was not aware of the fact that the name of her husband, who had died on 05.03.2008 after the demise of his mother on 20.12.1998, had not been included in her Legal Heirship Certificate dated 12.06.2008.

3. Though in matters of this nature, laches would be a relevant factor, it cannot preclude the Respondents from discharging their duty as fact finding authorities to ascertain particulars when sufficient materials are available requiring the same to be duly considered in support of the claim in this regard.

4. It is pointed out by the Learned Counsel for the Petitioner that the brother of the deceased husband of the Petitioner, viz., K. Ganesan, and another legal heir of the said K. Kaliammal has made a statement during enquiry supporting the claim of the Petitioner in this regard. In fact, the Learned Counsel for the Petitioner has also produced the affidavit dated 18.06.2019 executed by the said K. Ganesan to that effect, which has been placed on record.

5. In the aforesaid circumstances, the impugned order No. Moo. Mu. 19622/2018/Y1 dated 24.10.2018 passed by the First Respondent confirming the order No. Mu. Mu. 493/2018/A5 dated 04.09.2018 passed by the Second Respondent cannot be sustained and accordingly, the same are set aside and the matter is remitted to the Second Respondent for re-consideration of the matter afresh. It is also open to the Petitioner to produce any further materials in proof of her claim. The Second Respondent after conducting proper enquiry affording full opportunity of hearing to all parties concerned, shall consider each of their contentions and pass reasoned order on merits and in accordance with law and communicate the decision taken to the Petitioner and other concerned parties and file a compliance report before the Registrar (Judicial) of this Court by 31.12.2019.

6. The Writ Petition is allowed on the aforesaid terms. No costs.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

maya/kv

To

1.The District Collector,
Kancheepuram District,
Collectorate Office,
Kancheepuram - 631 501.

2.The Revenue Divisional Officer,
Kancheepuram,
Kancheepuram.

3.The Tahsildar,
Kancheepuram Taluk,
Taluk Office, Kancheepuram.

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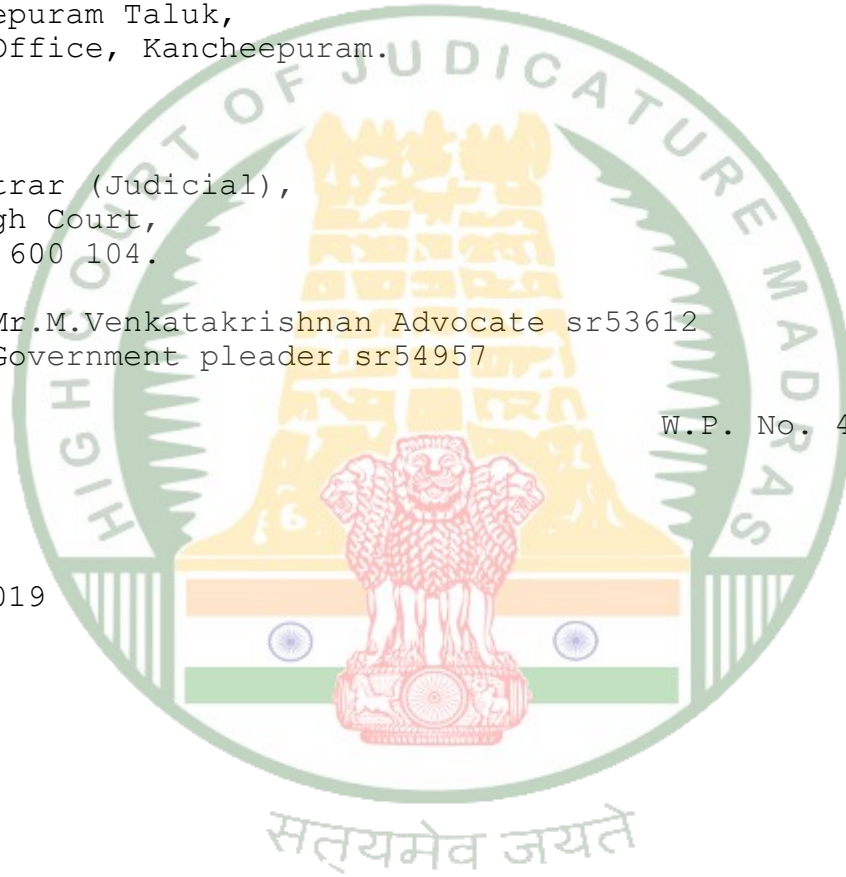
The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1 cc to Mr.M.Venkatakrishnan Advocate sr53612

+1 cc to Government pleader sr54957

W.P. No. 4213 of 2019

pm(co)
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