

+IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.8964 of 2019

E.Geethesan

.. Petitioner

..Vs..

1. The District Collector,
Salem District,
Salem.
 2. The District Revenue Officer,
Salem District,
Salem.
 3. The Revenue Divisional Officer,
Attur, Salem District.
 4. The Tahsildar,
Attur, Salem District.
 5. N.Ambujam
(R5 impleaded as per order dated 26.09.2019 in
WMP No.28176/2019 in W.P.No.8694/2019)
 6. R. Mohan Ranganathan
(R6 impleaded vide Court order dated 19.12.2019 in
WMP No.36162/2019)
- ..Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 4th respondent herein to consider petitioner's application dated 28.05.2018 and representation dated 20.09.2018 for the issue of the legal heirship certificate of petitioner's deceased mother E.Kumudha who was murdered on 29.04.2018.

For Petitioner
For Respondents

: Mr.V. Paul Das
: Mr.R.Govindasamy
Special Government Pleader
for R1 to R4
: Mr.S. Vijayakumar for R5
: Mr. M.C.Swamy for R6.

O R D E R

The writ petition has been filed in the nature of mandamus seeking for a direction to the Fourth Respondent viz., the Tahsildhar, Attur, Salem District, to consider the application of the petitioner dated 28.05.2018 and a further representation dated 20.09.2018 for issuance of Legal Heirship Certificate for the petitioner, according to him, the deceased mother, E.Kumudha, who is said to have been murdered on 29.04.2018. It is very unfortunate that none of the parties to the present writ petition viz., the petitioner nor the 5th respondent, who has been impleaded viz., N.Ambujam, who claims to be one of the daughters of V.K. Ilayalvar, but who is described as wife of late.V.K.Ilayalvar or the Petitioner in W.M.P. No.36162 of 2019 R.Mohan Ranganathan, which application is also ordered today and who claims to be one of the grandsons of V.K.Ilayalvar, are not at all concerned or do not have any grievance or any regret that the said E.Kumudha was murdered. All they want is a share in her property, which they presumed were in her hands.

2. It is stated that if it is declared that the said E.Kumudha, had died interstate, then the impleading parties would be able to get a share in the property. It is therefore obvious that the only interest of the petitioner and the impleading parties have are certainly not in the person of E.Kumudha, but in the properties of E.Kumudha, who was unfortunately murdered. Thus they are motivated by a purely selfish intent, and the writ petition has also been filed only with such selfish motive and the Writ Miscellaneous Petitions seeking to implead additional parties have also been filed only with such selfish motive. It is the fervent hope of this Court that any Judicial Authority, who decides the Civil Suit, which is said to be pending, would also realise that the parties are not concerned or grieved by the death of the poor lady, but only trying to grab the properties of the said lady.

3. With this introduction, the previous order dated 26.09.2019 passed by my learned predecessor was for a direction to the 4th respondent to issue notices to all parties concerned, conduct necessary enquiry on the application of the petitioner dated 28.05.2018 and the further representation dated 20.09.2018 and file a report before this Court. That order has not been challenged.

4. Today, the learned Special Government Pleader had filed a substantial volume of documents running to over 550 pages. The report of the 4th respondent, filed pursuant to the enquiry conducted as directed by order dated 26.09.2019 is at page No.557. In that report, it is concluded that, on the basis of

the enquiry conducted by him and on the basis of the documents perused by him and filed by all the parties concerned including the party who seeks to implead himself and also the party who was already impleaded in the writ petition, the present petitioner is the legal heir of the deceased E.Kumudha.

5. This report is seriously disputed and challenged by the learned counsel for the impleaded party and the party to be impleaded in the writ petition. It is stated that the said report had been submitted to the Court only today and that they should be afforded an opportunity to file their objections. I hold that even if, objections are filed before this Court, a writ Court can never determine whether a particular person is a legal representative of a deceased person. It is for the Competent Authority to decide that fact in manner known to law. The Writ Court, cannot be converted to collect evidence, record evidence, analyse the evidence and give a decision on the evidence. This Court is not prepared to enter into such an exercise and adventure.

6. It is made clear that not only N.Ambujam, who has been shown as wife of V.K.Ilayalvar, but who is actually said to be a daughter of V.K.Ilayalvar and the petitioner in W.M.P. No.36162 of 2019 R.Mohan Ranganathan can very well challenge the report and finding of the Tahsildar in any manner, they deem fit in any appropriate proceedings. It is a report of a revenue authority and this Court in its writ jurisdiction cannot sit on appeal against such a report.

7. In so far as the 4th respondent, namely the Tahsildar is concerned, he is a public official, who has a duty to comply the directions of the order dated 26.09.2019 and conduct an enquiry, as directed and file a report before this Court. Therefore, since he had submitted a report after enquiring all the parties that the petitioner herein is a legal heir of the deceased E.Kumudha, it only follows, in pursuance to the earlier order of this Court by my learned predecessor dated 26.09.2019, for which due respect is given by me, a legal heirship certificate has to be issued in accordance with the findings in the report.

8. This is not the end of the matter. The contesting respondents may very well challenge the grant of legal heirship certificate. By grant of legal heirship certificate, it would not mean that the petitioner has acquired any substantial right. All that the petitioner and the contesting respondents are seeking to acquire is a share in the properties of late E.Kumudha, which share can be determined only in a Civil Court. The report of the Tahsildar can be challenged in an appropriate proceedings and the grant of legal heirship certificate in pursuant to orders today can also be challenged in manner known

to law and the order of this Court dictated today in open Court may also be challenged in manner known to law.

9. With the above observations, the Writ Petition stands disposed of. No costs.

Sd/-/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

kv

To

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
Salem District,
Salem.
3. The Revenue Divisional Officer,
Attur, Salem District.
4. The Tahsildar,
Attur, Salem District.

+4cc to Mr.V.Paul Das, Advocate, SR.No.83532, 105749.
+2cc to Mr.P.Kannan Kumar, Advocate, SR.No.106537.

सत्यमेव जयते

W.P.No.8964 of 2019

PVS (CO)
CSR: 31.01.2020

WEB COPY