

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.10022 of 2019

and

WMP.No.10592 of 2019

V.Rajesh

...Petitioner

Vs.

1.The Tahsildar
Chengalpet
Kancheepuram District.

2.The Revenue Inspector
Chengalpet Circle
Chengalpet (Tk), Kancheepuram (DT).

3.The Village Administrative Officer
Melamaiur, Chengalpet (Tk)
Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the 1st respondent in Na.Ka.No.2225/2016/A4 dated 03.07.2017 and quash the same and consequently, direct the 1st respondent to issue legal heir certificate in favour of the petitioner based on the adoption deed dated 17.10.1997.

For Petitioner : Mr.K.Sathish Kumar

For Respondents: Mr.S.N.Parthasarathy
Government Advocate

WEB COPY

O R D E R

Mr.S.N.Parthasarathy, learned Government Advocate takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the 1st respondent dated 03.07.2017, wherein and whereby, his request for issuance of a legal heirship certificate was rejected by directing the petitioner to approach the Civil Court and get the relief. Consequently, the petitioner seeks for a direction to the 1st respondent to issue the legal heirship certificate.

3. Heard both sides.

4. It is stated that the petitioner was adopted by one C.Munusamy by way of executing a Adoption Deed dated 17.10.1997 between the natural parents and adoptive parents. It is further stated that the said deed was registered as Document No.182/1997 on the file of the Sub-Registrar Office, Chengalpet. It is also stated that the said Munusamy is not having any other child than the petitioner, as the adoptive son. The petitioner approached the 1st respondent and sought for issuance of legal heirship certificate in pursuant to the death of his adoptive father and mother on 18.10.1997 and 14.01.2002 respectively. However, the said request was rejected by an order dated 14.07.2016. The said order was put to challenge before this Court in WP.No.33454 of 2016 and the said writ petition was disposed of on 23.09.2016, by observing as follows:

"2. The petitioners seeks for setting-aside the order passed by the first respondent, dated 14.07.2016, rejecting the petitioner's request for grant of Legal Heir Certificate, certifying that he is the sole legal heir of Mr.C.Munusamy, who is his adopted father. The stand taken by the first respondent is well founded. Further, it appears that respondents 2 and 3 have conducted certain enquiries in which they found that the petitioner was validly adopted by the deceased, C.Munusamy, by virtue of an adoption deed, dated 17.10.1997. It further appears that respondents 2 and 3 have conducted local enquiry and certified that the petitioner is the son of the deceased, C.Munusamy. Therefore, this Court is of the view that the first respondent may take a fresh decision, after referring to those reports and ascertain the genuineness.

3. In the light of the above, this writ petition is allowed, the impugned order is set-aside and the matter is remanded back to the first respondent to consider the report submitted by the respondents 2 and 3 and pass orders afresh, on merits and in accordance with

law, within a period of eight weeks from the date of receipt of a copy of this order. In the event, if the first respondent rejects the petitioner's request, then the petitioner has to approach only the Civil Court and get his status declared. No costs."

5. Thereafter, the 1st respondent passed the present impugned order reiterating the earlier contention raised in the previous order dated 14.7.2016, thereby, directing the petitioner to approach the Civil Court to obtain the relief.

6. It is pointed out by Mr.K.Sathish Kumar, learned counsel for the petitioner that the 1st respondent has totally misdirected himself with the last observation made in Paragraph No.3 of the order passed in WP.No.33454 of 2016 without referring to the previous observation made in Paragraph No.2, wherein, this Court has specifically found that the Revenue Inspector and the Village Administrative Officer, who have conducted certain enquiries found that the petitioner was validly adopted by the deceased C.Munusamy, by virtue of an adoption deed dated 17.10.1997. Therefore, he contended that when such material evidence is available by way of a report submitted by the local Revenue officials, in support of the claim made by the petitioner, the 1st respondent is not justified in rejecting the request of the petitioner simply by directing the petitioner to approach the Civil Court.

7. The learned Government Advocate for the respondents fairly submitted that the present impugned order was passed only by taking note of the last observation made at Paragraph No.3 of the earlier order passed by this Court in WP.No.33454 of 2016 without referring to the findings and observation made in Paragraph No.2 of the said order.

8. Perusal of the facts and circumstances of the case as well as the findings rendered by this Court earlier at Paragraph No.2 of the order passed by this Court in WP.No.33454 of 2016, would show that the 1st respondent has misdirected himself in passing the present impugned order without looking into the report submitted by the respondents 2 & 3, which are found to be in favour of the petitioner. Under such circumstances, this Court is of the view that the matter needs to be remitted back to the 1st respondent for passing fresh orders after considering the report submitted by the respondents 2 & 3.

9. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the 1st respondent to pass fresh orders on merits and in accordance with law, after considering the report

submitted by the respondents 2 & 3. Such exercise shall be done by the 1st respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mk

To

- 1.The Tahsildar
Chengalpet
Kancheepuram District.
- 2.The Revenue Inspector
Chengalpet Circle
Chengalpet (Tk), Kancheepuram (DT).
- 3.The Village Administrative Officer
Melamaiur, Chengalpet (Tk)
Kancheepuram District.

+lcc to Mr. K.Sathish Kumar, Advocate, S.R.No. 33542

+lcc to the Government Pleader, S.R.No. 34056

W.P.No.10022 of 2019

VD(CO)

GN(20/05/2019)

सत्यमेव जयते

WEB COPY