

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

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

W.P. No. 13825 of 2019

and

W.M.P. Nos. 13905 and 13906 of 2019

Mrs. Victoria Aruldoss

... Petitioner

-vs-

1. The Tahsildar,
Parutipattu Village,
Ponnammallee - 600 056,
Tiruvallur District.
2. The Registrar (Births and Deaths),
Department of Public Health,
Corporation of Chennai,
Chennai - 600 003.
3. The Medical Director,
Railway Hospital,
Perumbur,
Chennai - 600 023.
4. Mrs. Adlin Mannah
5. Mr. Raja Pandian
6. Mrs. Raja Pandian
7. Mr. A. Sunil Franklin
8. The Tahsildar,
No. 1, Palli Arasan Street,
New Avadi Road,
Ayanavaram,
Chennai - 600 023.
(R7 and R8 impleaded vide
Court order dated 07.08.2019)
and made in WMP 22035/19 in WP No.13825/19)

9. Mrs. Abishekam

... Respondents

(R9 impleaded vide order
Court order dated 01.10.2019
in WMP 28213/19 in WP 13825/19)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to 02/G/0889536 dated 10.11.2015 on the file of the First Respondent and quash the same.

For Petitioner : M/s. C. Gladys Daniel

For Respondents: Mr. M. Karthikeyan,
Additional Government Pleader
(for R1, R2 and R8)

Mr. P.T. Ramkumar,
Standing Counsel (for R3)

Mr. D. Simon (for R4 to R6)

M/s. T. Hemalatha (for R7)

O R D E R

The Petitioner, viz., Mrs. Victoria Aruldoss, is the mother of Dr. Anil Lionel, who died on 06.10.2015. According to the Learned Counsel for the Petitioner, the Fourth Respondent, viz., Mrs. Adlin Mannah, who is the wife of the deceased Dr. Anil Lionel, had produced a copy of the Legal Heirship Certificate No. Pa. Mu. 9829/2015/A4 dated 10.11.2015, purported to have been issued by the First Respondent, showing the Petitioner and the Fourth Respondent as legal heirs of the deceased Dr. Anil Lionel in the application in O.A. No. 310/185/2019 filed by the Petitioner before the Central Administrative Tribunal, Madras Bench, Chennai for restraining the payment of the terminal benefits of the deceased Dr. Anil Lionel by his employer to the Fourth Respondent till the completion of the investigation of his death under suspicious circumstances. The aforesaid Legal Heirship Certificate issued by the First Respondent is challenged in the Writ Petition on the ground that the said Certificate, which bears the date as 10.11.2015, could not have

been issued by the First Respondent, who does not possess requisite territorial jurisdiction as the deceased Dr. Anil Lionel was not a resident of that locality at the time of his death and that too, even before the death of the deceased Dr. Anil Lionel had been registered on 18.02.2016 under the provisions of the Registration of Births and Deaths Act, 1969. It is further contended that in any event, the name of the Seventh Respondent, viz., Mr. A. Sunil Franklin, who is the brother of the deceased Dr. Anil Lionel could not have been excluded as a legal heir in terms of Section 33 of the Indian Succession Act, 1925, which governs them.

2. The First Respondent has filed Counter Affidavit dated 01.10.2019 stating that on verification of records in his office, it has been found that the Certificate No. Pa. Mu. 9829/2015/A4 dated 10.11.2015, which is impugned in the Writ Petition, is not genuine. In this regard, it would be necessary to extract the relevant portions therefrom, which read as follows:-

"I respectfully submit that I took charge as Tahsildar, Poonamalle on F.N. of 04.09.2019. The Legalheirship certificate enclosed with affidavit is verified with reference to our office records. On perusal of this office records and on verification of the Tahsildar on 10.11.2015, it is found the genuises of the legalheir certificate produced is not true. The signature of the Legalheir certificate resembles of one Tmt. Abishegam. S. Who was relieved on duty from 25.10.2015 itself. Moreover upon verification of the distribution register maintained in this office, the Distribution Register Number 0829/2015/A4 mentioned in this certificate is originally allotted to the "B2" seat clerk who deals with land matter like land alienation and encroachment eviction etc. And on verification of the Personnel Register of the "A4" seat clerk dealing with Legalheir Certificate the Distribution Register No allotted on 23.09.2015 is from 9800 to 9826. In continuation with that only on 28.09.2015 Distribution Register No. 9875 is allotted to the "A4" Assistant.

Also it is respectfully submitted that the DR No mentioned in the Writ Petition of the Legalheir Certificate does not find any relevance to the Legalheir Seat Clerk with designation as "A4" Assistant. The distribution register and personnel register of the A4 clerk is submitted for Hon'ble Court perusal.

Moreover after lapse of 3 1/2 years time the offenders involved in fake certificate could not be brought to the eyes of law and necessary action could

not be taken.

I have humbly submit that as Tahsildar, Poonamallee, I well ensure no such certificates will be issued in the future and I submit all the certificate categories are issued via online through 'e district portal'."

As the impugned Legal Heirship Certificate has been found to be not genuine, it would necessarily follow that it is nullity and non-est in the eye of law and neither any right would accrue to any of the party by acting upon it nor the same could be relied for any purpose.

3. This Court during the earlier hearing on 27.06.2019 had passed an interim order in W.M.P. No. 13906 of 2019 in this Writ Petition, which reads as follows:-

"3. The Third Respondent was the employer of the deceased and the Petitioner has filed O.A. No. 310/185/2019 before the Central Administrative Tribunal, Madras Bench, Chennai claiming the terminal benefits of her deceased son. An apprehension is expressed by the Learned Counsel for the Petitioner that the terminal benefits due to the brother of the deceased would be paid by the Third Respondent on account of non-inclusion of his name in the Legal Heirship Certificate, which is the matter in issue in this Writ Petition.

4. In order to balance of equities between the parties and ensure that there is no failure of justice, the eligible terminal benefits due to the deceased shall be invested by the Third Respondent in an interest fetching Fixed Deposit in any Nationalized Bank in Chennai City in the name of the Registrar of the Central Administrative Tribunal, Madras Bench, Chennai for an initial period of three months and renewable automatically thereafter and the Fixed Deposit receipt shall be handed over to the Registrar, Central Administrative Tribunal, Madras Bench, Chennai under written acknowledgment and the proof of the same shall be produced before this Court. The disbursement of the terminal benefits of the deceased to his legal heirs shall await further orders of this Court."

In furtherance to the aforesaid interim order passed by this Court, it is left open to the Petitioner, the Fourth and Seventh Respondents to agitate their respective claims and/or contentions in O.A. No. 310/185/2019

before the Central Administrative Tribunal, Madras Bench, Chennai and it is made clear that no view has been expressed by

this Court on the correctness or entitlement on the merits of the same. Nothing remains for further consideration in this Writ Petition.

4. It is also incumbent upon the jurisdictional Police Officer to enquire into the matter and after proper investigation, take appropriate action against the erring persons involved in the offence of creating false document, in accordance with law.

5. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Tahsildar,
Parutipattu Village,
Ponnammallee - 600 056,
Tiruvallur District.
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Chennai - 600 023.
4. The Tahsildar,
No. 1, Palli Arasan Street,
New Avadi Road,
Ayanavaram,
Chennai - 600 023.

Copy to

1. The Commissioner of Police,
No. 132, Commissioner Office Building,
E.V.K Sampath Road,
Vepery,
Periyamet,
Chennai - 600 007.

2. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Madras High Court Campuse,
Chennai - 600 104.

+1cc to Mr.P.T.RamKumar, Advocate Sr.84480
+1cc to Dr.D.Simon, Advocate Sr.84424
+2cc to M/s.Daniel & Gladys Daniel, Advocate SR.84465

W.P. No. 13825 of 2019

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