

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.8.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2884 of 2019
and
C.M.P.No.18569 of 2019

Dr.S.Appuswamy Appellant/3rd Respondent

Versus

1. The Revenue Divisional Officer,
Tirupattur, Vellore District.
2. The Tahsildar,
Tirupattur, Vellore District.
3. The Tahsildar,
Tiruppur, Coimbatore District. Respondents/Respondents1, 2, 4
4. P.Palaniyapan ...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order of this court dated 20.8.2018 in W.P.No.29641 of 2003.

Prayer in WP No.29641 of 2003: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorari to call for the records on the file of the first and fourth respondents in proceedings in Mu.Mu.A2/6084/2003, dated 10.09.2003 and 3497/2001/AG, dated 20.04.2001 respectively and quash the same as illegal.

For appellant : Mr.K.Rajendra Prasad

For R1 to R3 : Mr.N.Srinivasan, AGP

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

This appeal is directed against the order dated 20.8.2018 by which, the learned Single Judge dismissed the Writ Petition filed by Palaniappan the fourth Respondent herein on a dispute arisen about the issuance of legal heirship certificate in respect of one Nalini.

2. The Writ petition was disposed of with the observation:-

"26. In the result, the following order is passed.

(i) The impugned order passed by the first respondent, in Mu.Mu.A2/6084/2003, dated 10.09.2003 is quashed.

(ii) Resultantly, the legal heir certificate issued by the Tahsildar, Tirupattur in favour of the petitioner since get revived, however, the same shall not be acted upon and that shall be kept in abeyance.

(iii) Equally the legal heir certificate issued in the year 2001 by the Tahsildar, Tirupur in favour of the third respondent shall also be kept in abeyance.

(iv) The parties are at liberty to approach the competent Civil Court to establish the right on the claim of the legal heirship of Nalini and once such a decision comes from the Court by way of declaratory relief, the respective parties shall act accordingly.

27. With these observations and orders, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed."

3. The learned counsel for the Appellant Mr.K.Rajendra Prasad drew our attention to the order passed by the Revenue Divisional Officer, Thirupathur on 10.9.2003 in which the said Revenue Divisional Officer is said to have observed that the certificate issued in favour of Palaniappan was issued without following the due procedure and the same is not correct. Further, the learned counsel for the Appellant submitted that even prior to issuance of this order, several transactions were undertaken by the said Palaniappan, the writ petitioner on the basis of this certificate issued by the Tahsildar and since the Writ Petition was not maintainable, the learned Single Judge ought to have dismissed the Writ Petition filed by the said Palaniappan.

4. Having heard the learned counsel for the parties, we are satisfied that there is no error in the order passed by the learned Single Judge. The learned Single Judge was justified in our opinion in relegating the parties to the Civil Court for establishing their right on the claim of the legal heirship of Nalini and once appropriate Decree is passed by the court, they can always approach the Authority concerned for issuance of legal heirship certificate.

5. With this observation, the Writ Appeal is disposed of. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Insp.cell)

//True copy//

Sub Assistant Registrar

ssk.

To:

1. The Revenue Divisional Officer,
Tirupattur, Vellore District.
2. The Tahsildar,
Tirupattur, Vellore District.
3. The Tahsildar,
Tiruppur, Coimbatore District.

+1cc to Mr.K.Rajendra Prasad, Advocate SR.No.73555

+1cc to Government Pleader SR.No.74120

W.A.No.2884 of 2019

NMI (CO)
GMY (26/09/2019)

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