

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.17678 & 33213 of 2018

and

W.M.P.No.38548 of 2018

W.P.No.17678 of 2018

R.Munirathinam ...Petitioner

Vs.

- 1.The District Collector,
Kancheepuram,
Kancheepuram District.
- 2.The District Revenue Officer,
Kancheepuram (Taluk),
Kancheepuram District.
- 3.The Revenue Divisional Officer,
Tambaram (Taluk),
Kancheepuram District.
- 4.The Tashildar,
Alanthur Tashildar Office,
Alanthur,
Kancheepuram District.
- 5.The Tashildar,
Ponneri Tashildar Office,
Ponneri,
Thiruvallur District.

6.Manjuladevi ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3rd respondent to consider the petitioner representation dated 04.12.2017 to cancel the legal heirs certificate No. A. No. 439/12 and A.A. No.11257/91/C4 dated 11.10.2012 and relationship certificate issued by the 4th respondent bearing No. A.965/2014/A6 dated 05.05.2014.

For Petitioner : Mr.A.Ilaya Perumal
for M/s.K.Karthick Jothi

For Respondents: Mr.R.Govindasamy
Special Government Pleader
for R1 to R5
Mr.R.Venkatesulu for R6

W.P.No.33213 of 2018

Manjuladevi @ Manjula

...Petitioner

Vs.

- 1.The State Government of Tamil Nadu,
Rep. by Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector,
Tiruvallur,
Tiruvallur District.
- 3.The Revenue Divisional Officer,
Ponneri, Ponneri Taluk,
Tiruvallur District.
- 4.The Tahsildar,
Ponneri, Ponneri Taluk,
Tiruvallur District.
- 5.The Tahsildar,
Taluk Office, Alandur.
(After division of Saidapet Taluk Office
the petitioner's jurisdiction comes under
the Taluk Office of Alandur)
- 6.The Revenue Inspector,
Sholavaram, Ponneri Taluk,
Tiruvallur District.
- 7.The Village Administrative Officer,
Aathur Village, Sholavaram,
Ponneri Taluk, Tiruvallur District.

8.Munirathinam

9.Malliga

10.Chamundeswari

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings relating to (legal heir certificate) Tha.Pa.No.820/2017/B3 dated 23.02.2017 issued by the Tahsildar, Ponneri and quash the same as illegal, on considering the Circular No.11/2017 Rc.No.RA.5(3)/180/2017 dated 09.08.2017 issued by the Commissioner of Revenue Administration and Govt.Lr.No.1534/ Rev.Dept. dated 28.11.1991 issued by the Special Commissioner (Revenue Department) and further direct the respondents 8 to 10 to work out their remedy before the competent Civil Court.

For Petitioner : Mr.R.Venkatesulu

For Respondents: Mr.R.Govindasamy,
Special Government Pleader
for R1 to R7
Mr.A.Ilaya Perumal for R8 to R10

COMMON ORDER

W.P.No.17678 of 2018 is filed seeking for following relief:
To direct the 3rd respondent to consider the petitioner representation dated 04.12.2017 to cancel the legal heirs certificate No. A. No. 439/12 and A.A. No.11257/91/C4 dated 11.10.2012 and relationship certificate issued by the 4th respondent bearing No. A.965/2014/A6 dated 05.05.2014.

2. W.P.No.33213 of 2018 is filed seeking for the following relief:

To call for the records of the proceedings relating to (legal heir certificate) Tha.Pa.No.820/2017/B3 dated 23.02.2017 issued by the Tahsildar, Ponneri and quash the same as illegal, on considering the Circular No.11/2017 Rc.No.RA.5(3)/180/2017 dated 09.08.2017 issued by the Commissioner of Revenue Administration and Govt.Lr.No.1534/Rev.Dept. dated 28.11.1991 issued by the Special Commissioner (Revenue Department) and further direct the respondents 8 to 10 to work out their remedy before the competent Civil Court.

3. In both the writ petitions, the subject matter of challenge is the two different legal heir certificate issued by the respective Tahsildars.

4. Heard the learned counsels appearing for the petitioners in both the writ petitions and the learned Special Government Pleader appearing for the official respondents and the learned counsels appearing for the private respondents.

5. It is seen that one P.N.Ramamurthy died on 23.12.1990. The petitioner in W.P.No.33213 of 2018 claims to be the daughter of the said Ramamurthy, whereas the petitioner in W.P.No.17678 of 2018 also claims to be the son of the said Ramamurthy born

through the second wife. The petitioner in W.P.No.33213 of 2018 disputes the claim made by the petitioner in W.P.No.17678 of 2018. Therefore, the legal heir certificate issued by the Tahsildars to both the parties are put to question before this Court mainly by questioning the very paternity of the petitioner in W.P.No.17678 of 2018.

6. The learned counsel appearing for the petitioner in W.P.No.17678 of 2018 submitted that the said petitioner is not disputing the fact that the petitioner in W.P.No.33213 of 2018 is the daughter of the said Ramamurthy born through the first wife. Therefore, he contended that the children born through the second wife also should be arrayed as parties in the legal heirship certificate. On the other hand, learned counsel appearing for the petitioner in W.P.No.33213 of 2018 submitted that the petitioner is disputing the very paternity of the petitioner in the other writ petition. With this scenario, this Court is not inclined to go into the correctness of the legal heirship certificates given by the respective Tahsildar, which is the subject matter in both the writ petitions and express any view, since it is for the parties to agitate the matter before the competent Civil Court by filing appropriate Civil Suit seeking for declaration of their respective right including by questioning the legal heirship certificate issued by the respective Tahsildar.

7. Needless to say that when the paternity is put to question, it is to be gone into and decided only by the competent Civil Court by looking into the evidence. Therefore, without expressing any view on the merits of the matter, both these Writ Petitions are disposed of by granting liberty to the respective petitioners to work out their remedy, by filing appropriate Civil Suit before the competent Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

gsi/vsi

To

1.The District Collector,
Kancheepuram,
Kancheepuram District.

2.The District Revenue Officer,
Kancheepuram (Taluk), Kancheepuram District.

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3.The Revenue Divisional Officer,
Tambaram (Taluk),
Kancheepuram District.

4.The Tashildar,
Alanthur Tashildar Office,
Alanthur,
Kancheepuram District.

5.The Tashildar,
Ponneri Tashildar Office,
Ponneri,
Thiruvallur District.

6.The Secretary to Government,
Revenue Department,
State Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

7.The District Collector,
Tiruvallur, Tiruvallur District.

8.The Revenue Divisional Officer,
Ponneri, Ponneri Taluk,
Tiruvallur District.

9.The Tahsildar,
Taluk Office, Alandur.

10.The Revenue Inspector,
Sholavaram, Ponneri Taluk,
Tiruvallur District.

11.The Village Administrative Officer,
Aathur Village, Sholavaram,
Ponneri Taluk, Tiruvallur District.

+1cc to Mr.K.Karthick Jothi, Advocate SR.No.19741

+1cc to Mr.A.Ilayaperumal, Advocate SR.No.19740

+2ccs to Mr.R.Venkatesulu, Advocate SR.No.19232,19233

+1cc to Government Pleader SR.No.19346

W.P.Nos.17678 & 33213 of 2018

KAN(CO)
GMY(22/03/2019)