

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.2086 of 2017

Jaya

...Petitioner

vs.

1. The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.

2. The Tahsildar,
Taluk Office,
Pochampalli, Pochampalli Taluk
Krishnagiri District.

3. Yuvaraj

...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 of the second respondent herein relating to the proceedings in Na.Ka.4657/2016/A6 dated 24.11.2016, quash the same and consequently direct the second respondent herein to issue the legal heirship certificate to the petitioner based on the application of the petitioner dated 20.08.2016 within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : Mr.D.Suriyanarayanan
Additional Government Pleader
for R1 & 2

No appearance for R3

O R D E R

This writ petition is filed challenging the order of the second respondent dated 24.11.2016, wherein and whereby the request of the petitioner for issuing the legal heirship

certificate for her deceased husband viz., Samivel was rejected.

2. The only reason stated for rejecting the request of the petitioner is that the petitioner's father-in-law viz., father of the deceased, objected to the grant of legal heirship certificate.

3. In this writ petition, the father-in-law of the petitioner was arrayed as the third respondent. Notice was issued to the third respondent and inspite of service of such notice, he has not chosen to appear before this Court either in person or through his counsel. His name is also printed in the cause list.

4. A counter affidavit is filed by the second respondent, wherein, it is admitted that the petitioner's husband viz., Samivel died on 25.10.2014 and that the petitioner has a minor son by name Gokul and a minor daughter by name Dakshiniya.

5. It is seen that the petitioner has applied for legal heirship certificate after the death of her husband by showing the petitioner, her children and the mother of the deceased as the legal heirs. When it is admitted by the respondent that the petitioner is the wife of the deceased and two of her children are the children of the deceased, I do not think that the third respondent being the father-in-law of the petitioner can make any objection in issuing the legal heirship certificate, more particularly, when he will not come under clause-1 category, especially, when the clause-1 heirs viz., the petitioner, the children and the mother of the deceased are very much alive and available. Therefore, the reason stated by the second respondent in rejecting the request of the petitioner for grant of legal heirship certificate cannot be sustained as the father-in-law of the petitioner is not entitled to oppose for grant of legal heirship certificate.

6. Needless to say that if there is any other dispute between the parties viz., the petitioner and the third respondent, it is for them to work out their remedy before the competent Civil Court by filing appropriate proceedings. But that does not prevent the second respondent from considering the request of the petitioner for issuing the legal heirship certificate, when it is admitted in the counter that after due enquiry, it was found that the petitioner is the wife and her two children are the children of the deceased.

7. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the second respondent to consider the petitioner's request for issuance of legal heirship certificate

and pass appropriate orders granting such certificate within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni/mk

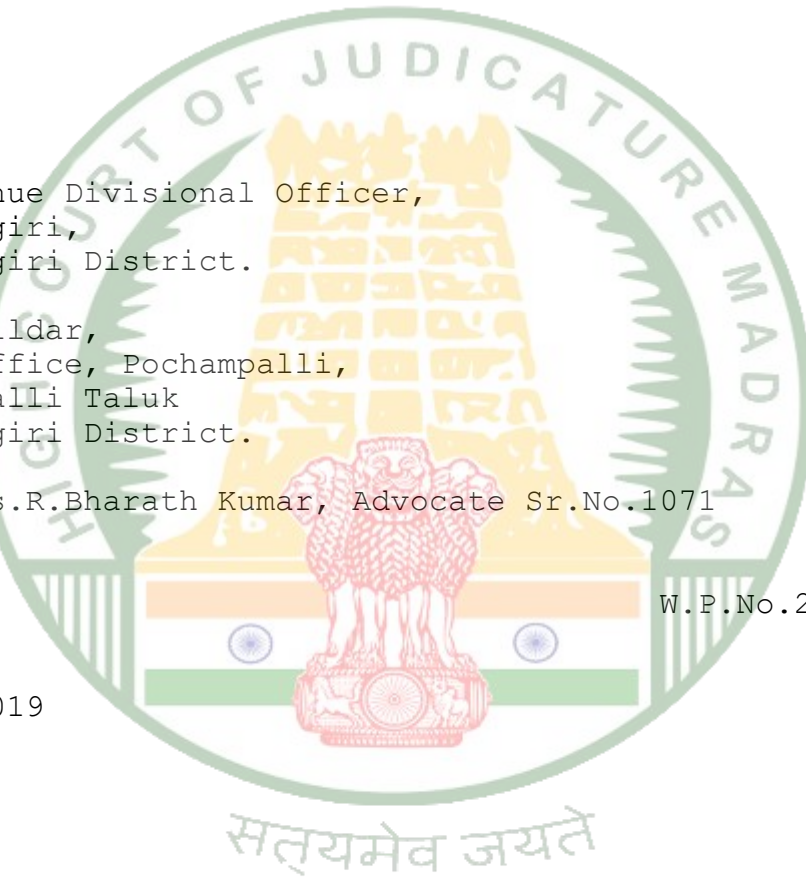
To

1. The Revenue Divisional Officer,
Krishnagiri,
Krishnagiri District.
2. The Tahsildar,
Taluk Office, Pochampalli,
Pochampalli Taluk
Krishnagiri District.

+1 cc to M/s.R.Bharath Kumar, Advocate Sr.No.1071

W.P.No.2086 of 2017

CP(CO)
CSL/29.01.2019



WEB COPY