



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 3323 of 2019 and

W.M.P. (MD) No. 2605 of 2019

M. Shanthi

... Petitioner

Vs.

The Tahsildar,
Tahsildar Office,
Aundipatti, Theni District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned online order dated 01.12.2018 passed by the respondent thereby rejecting the petitioner's online application bearing No. TN-720 181 101 1652 dated 01.11.2018 and quash the same and consequently direct the respondent to issue legal heir certificate to the petitioner within a time limit as fixed by this Court.

For Petitioner : Mr. P. Sivachandran

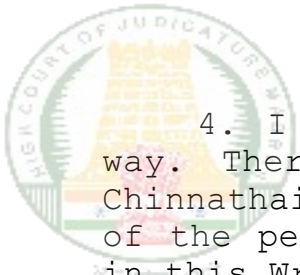
For Respondent : Mr. R. Sethuraman,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side.

2. The petitioner's mother Chinnathai had married one Mariyappan. The same appears to have been dissolved in the customary way. Thereafter, she married one Vellaisamy. Through the said Vellaisamy, the petitioner Shanthi, and two others namely, Lakshmi and Revathi were born. Vellaisamy passed away on 17.09.2017. The petitioner applied for issuance of Legal Heir Certificate. The respondent declined to issue the Legal Heir Certificate on the ground that the petitioner's mother was twice married. On that ground, the petitioner's application was rejected. The order of rejection is under challenge in this Writ petition.

3. The learned Special Government Pleader placing reliance on the Circular dated 09.08.2017 issued by the Commissioner of Revenue Administration, pointed out that where a person was twice married, Legal Heir Certificate should not be issued. In this case, the deceased Vellaisamy was married only once.



4. I am of the view that the Circular need not come in the way. There is no dispute that Vellaisamy was married only to Chinnathai. In any event, there is no dispute regarding paternity of the petitioner and her sisters. Therefore, the order impugned in this Writ petition stands set aside.

5. This Writ petition stands allowed, accordingly. The respondent is directed to issue Legal Heir Certificate indicating that the names of children alone as the legal heirs. Since the marital status of Chinnathai is under a cloud, Chinnathai shall not be shown as one of the legal heirs. The said certificate shall be issued within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

pmu

To

The Tahsildar,
Tahsildar Office,
Aundipatti, Theni District.

+1CC TO MR.P.SIVACHANDRAN, Advocate Sr. No. 51205
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 51354

W.P.(MD)No.3323 of 2019 and
W.M.P.(MD)No.2605 of 2019
01.03.2019

TR (21.03.2019) 2P 4C