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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.4316 of 2019

Kamatchi

... Petitioner

Vs.

The Tahsildar,
Kulathur Post & Taluk,
Pudukkottai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent dated 28.11.2016 in Na.Ka.No.10670/2016/A1 and quash the same as illegal and in consequence thereof direct the respondent to conduct enquiry and issue Legal Heir Certificate to the petitioner for the death of her sister Devika.

For Petitioner : Mr.P.Ganapathi Subramanian
For Respondent : Mr.K.Mu.Muthu,
Additional Government Pleader.

O R D E R

The Writ petitioner's sister Devika belonged to the transgender category. She passed away on 10.05.2016. The petitioner's parents had already passed away. When the petitioner applied for issuance of legal heir certificate, the respondent took the stand that since the petitioner is not a Class-I legal heir, the petitioner will have to approach civil Court and that the respondent cannot issue any certificate. This stand of the respondent as reflected in the impugned memorandum dated 28.11.2016, is assailed in this Writ petition.

2. It has already been held by the Madras High Court vide order dated 01.08.2018 in W.P. (MD) No.15211 of 2018 as follows:-

"6. When the law specifies the mode of succession, there is no impediment on the part of the Tahsildar to issue Legal heirship certificate as prescribed in the mode of succession. Nevertheless, in cases, where there are serious rival claims for the heirships, which cannot be considered, on the basis of the statement of the claimants and which necessarily requires to be established through proper oral and documentary evidences, it would be



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appropriate, to refer such parties to the Civil Court of law. Such an exercise however should be made only when the authority is satisfied that there is a rival claim for heirships or the relationship of the heirs with the deceased is disputed. In all other cases, the authorities are bound to issue Legal heirship Certificate for the Class-II legal heirs also. It is needless to point out that the certificates thus issued should be preceded by a proper enquiry by the Revenue Authorities."

3. The respondent is therefore not justified in declining to issue the legal heir certificate on the ground that the applicant is only the sister of the deceased and not the Class- I legal heir.

4. In this view of the matter, the impugned memorandum stands quashed. It is for the petitioner to approach the respondent and submit the materials indicating that she is the sister of the deceased Devika. If the petitioner is able to satisfy with the respondent that she is actually the sister of the deceased Devika, then the respondent shall issue the legal heir certificate sought for by the Writ petitioner.

5. The Writ petition stands allowed, on these terms. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

pmu

To
The Tahsildar,
Kulathur Post & Taluk, Pudukkottai District.

+1CC TO MR.P.GANAPATHI SUBRAMANIAN, Advocate Sr. No.63145
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.62435

W.P. (MD) No.4316 of 2019
24.04.2019

BP (CO)
TR (04.06.2019) 2P 4C