



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

**W.P. (MD) No.5896 of 2019**

**and**

**W.M.P (MD) .Nos.4719 and 1420 of 2019**

Sanjay Rodrigo

... Petitioner

Vs

1.The Sub Collector,  
Tuticorin, Tuticorin District.

2.Judy Kattar ... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the order in Mu.Mu.A2/4442/2018 dated 13.12.2018 passed by the first respondent and quash the same.

For Petitioner : Mr.B.Rajesh Saravanan

For R1 : Mr.M.Karuppasamy  
Government Advocate

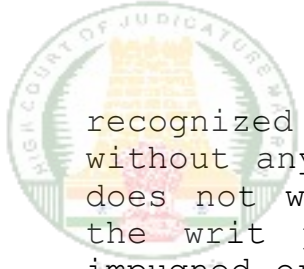
**ORDER**

Heard the learned counsel appearing for the writ petitioner.

2. The writ petitioner claims that he was brought up by one Thomas Fernando as a foster son. The said Thomas Fernando is no more. The petitioner was included in the list of legal heirs in the certificate dated 28.02.2017 issued by the Tahsildar, Tuticorin. The said certificate was cancelled by the impugned order dated 13.12.2018 issued by the first respondent. The same is under challenge in this writ petition.

3. The learned counsel appearing for the writ petitioner contended that the impugned order has to be set aside as the petitioner was not put on notice before passing the same. The second contention is that the impugned order rests on a circular dated 09.08.2017. The legal heir certificate was issued by the second respondent on 28.02.2017. Therefore, the first respondent was clearly in error in relying on the subsequently issued circular for cancelling the certificate issued in favour of the writ petitioner. The first respondent has no authority whatsoever to pass the impugned order.

4. Though all these three submissions are having substantial weights and force, I am of the view that no interference is called for in this writ petition. Even according to the writ petitioner, he is only a foster son of the deceased Thomas Fernando, who passed away on 18.01.2017. Only biologically born children can be included in the legal heirs along with the other recognized legal heirs. A foster son cannot call himself as a legal heir of the deceased individual. Since the very claim of the writ petitioner to be



recognized as the legal heir of the deceased Thomas Fernando is without any foundation, I am of the view that the order now passed does not warrant any interference. If I accept the submission of the writ petitioner, I will have to necessarily set aside the impugned order passed by the first respondent. That will result in the restoration of the legal heir certificate dated 28.02.2017, in which, the writ petitioner has been shown as one of the legal heirs. It is a well settled principle of law that if quashing of the impugned proceedings would result in restoring an illegal state of affairs, the Court would be justified in declining to grant relief in exercise under Article 226 of the Constitution of India.

5. For the above reasons, I decline to grant any relief. The Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Sub Collector,  
Tuticorin, Tuticorin District.

+1cc to Mr.B.RAJESH SARAVANAN, Advocate, SR.No.54257  
+1cc to M/s.Special Government Pleader,SR.No. 53992

**W.P. (MD)No.5896 of 2019**

**RMK**

**KK/SAR/04.04.2019/ 2P- 4C**

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