



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **04.06.2019**

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7938 of 2019

and

W.M.P.(MD)No. 6275 of 2019

WEB COPY

J.Latha

... Petitioner

Vs.

1. The State of Tamilnadu,
Through District Collector,
Kanniyakumari District,
Nagercoil Post.
2. The Tahsildar,
Agasteeswaram Taluk,
Office at Nagercoil and post,
Kanniyakumari District.
- 3.Rapooni
- 4.D.Selvaraj,
- 5.Soorya Bai @ Leela

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, calling for the records in letter Memo.Naka.No.C3/1705/2018 dated 02.05.2018, issued by the second respondent and quash the same and direct the first and second respondents to issued the Legal Heir Certificate of the deceased Mr.Johnson, the husband of the petitioner, by leaving the name of the third respondent, within a time limit fixed by this Court.

For Petitioner : Mr.C.Dhanaseelan

For R1 and R2 : Mr.K.Mu.Muthu,
Additional Government Pleader

For R3 : Mr.S.Sivakumar

ORDER

Heard the learned counsel on either side.

2.The writ petitioner got married to one Johnson and through the said marriage three children were born. The third respondent herein namely Rapooni was the third child. The fifth respondent herein is none other than the sister of the writ petitioner. The third respondent Rapooni was given in adoption on 22.04.1996, after undergoing necessary ceremonies to the respondents 4 and 5. Formal adoption deed was also executed and the same was registered as document No.232/1996 on the file of the Joint Sub Registrar-2, Agastheeswaram. The third respondent was then aged about 4 years. She was brought up only by the fourth and fifth respondents ever since.

3.The petitioner's husband Johnson passed away. The petitioner applied for issuance of legal heir certificate. The second respondent insisted that in the legal heir certificate, the name of the third respondent also will be included as one of the legal heir of Late.Johnson. The petitioner informed the second respondent that the third respondent has since been given in adoption long back. But the second respondent declined to accept the petitioner's request and informed the petitioner vide letter dated 02.05.2018 that there is no possibility of deleting the name of the third respondent in the legal heir certificate. This communication dated 02.05.2018 issued by the Tahsildar, Agasteeswaram is challenged in this writ petition.

4.The official respondents have filed a detailed counter affidavit controverting the stand taken by the writ petitioner. The learned Additional Government Pleader also reiterated the contentions set out therein. Mr.Sivakumar, learned counsel enters appearance for respondents 3 to 5. A consent affidavit has also been filed by respondents 4 and 5 stating that the third respondent is the biological child of the writ petitioner, has given in adoption to them as early as on 22.4.1996.

5.The learned counsel appearing for the petitioner drew my attention to the decision reported in **2009 (8) MLJ 309** in the case of **R.R.George Christopher and another**, for the proposition that eventhough, the parties may be Christian, there can be adoption among them, since Canon laws permits such adoption. In any event, Secular Law namely Juvenile Justice (Care and Protection of Children) Act, 2000 was passed provided in adoption even among Christian. The adoption in this petition taken place prior to the passing of Juvenile Justice Act.

6.In view of the decision of the Principal Seat of this Court reported in **2009 (8) MLJ 309** in the case of **R.R.George Christopher and another**, I have to hold that the adoption of the third respondent by the respondents 4 and 5 is perfectly legal. Once



the third respondent was given away by adoption by the petitioner, she ceased to be a child in the family by birth.

7. Therefore, the second respondent could not have been included the name of the third respondent in the legal heir certificate of the Late. Johnson. The second respondent ought to have taken note of the adoption of the third respondent by the fourth and fifth respondents. In as much as adoption deed dated 22.04.1996 was not taken note of by the second respondent, the order impugned in this writ petition is quashed and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

pnn / rj2

To

1. The District Collector,
Kanyakumari District,
Nagercoil Post.
2. The Tahsildar,
Agasteeswaram Taluk,
Office at Nagercoil and post,
Kanyakumari District.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.66918
+1CC TO C.DHANASEELAN, ADVOCATE, SR.NO.66768

W.P. (MD) No. 7938 of 2019

and

W.M.P. (MD) No. 6275 of 2019

04.06.2019

BUC (27/06/2019) 3P/5C