



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2019

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANWP(MD)No.22118 of 2018

WEB COPY

P.Kaliammal

... Petitioner

Vs.

1.The Tahsildar,
Theni Taluk, Theni District.

2.V.Selvakumar

... Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned legal heir certificate issued by the first respondent made in Certificate No.TN - 720180922301 dated 25.09.2018 and quash the same and consequently direct the first respondent to issue legal heir certificate for the petitioner's deceased daughter namely Angayarkanni by including the petitioner within the time stipulated by this Court.

For petitioner	: Mr.D.Pala Ramasamy
For Respondents	: Mr.Karuppasamy, Government Advocate for R1 Mr.P.Muthuvijayapandian for R2

ORDER

The writ petitioner's daughter Angayarkanni passed away on 11.09.2018. She got married to the second respondent herein. They had no issues. The case of the writ petitioner is that the second respondent has obtained a legal heir certificate from the Tahsildar by indicating him alone as the legal heir. This is questioned in this writ petition.

2.When the matter was taken up for hearing, the learned counsel appearing for the second respondent drew my attention to Section 15 of the Hindu Succession Act, 1956. The said provision would read as under :

"15. General rules of succession in the case of female Hindus.-

(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,-

(a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband;



(c)thirdly, upon the mother and father;
(d)fourthly, upon the heirs of the father; and(e)
lastly, upon the heirs of the mother.

(2)Notwithstanding anything contained in sub-section (1),-(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased(including the children of any pre-deceased son or daughter) not upon the other heirs referred in sub-section (1) in the order specified therein, but upon the heirs of the father; and

(b)any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband. "

3.He pointed out that when the husband is alive, he will take the property to the exclusion of even the parents of the deceased female.

4.I am afraid that the learned counsel appearing for the second respondent herein has failed to appreciate the scope of this writ petition. The only question that arises in this writ petition is whether the writ petitioner is a legal heir of her deceased daughter Angayarkanni. The answer is available in the Schedule to Hindu Succession Act, 1956. Mother is definitely a Class I legal heir. But then, we are not concerned with the rules of succession in this case in respect of the disposal of her property. That will have to be of course dealt with only as per Section 15 of the said Act.

5.In this view of the matter, the first respondent is directed to issue a fresh legal heir certificate by indicating the second respondent herein as well as the writ petitioner herein as the legal heirs of the deceased Angayarkanni. This writ petition is allowed. No costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar, Theni Taluk, Theni District.

+1CC TO Mr.P.Muthu Vijaya Pandian, Advocate, Sr No.57083

+1CC TO Mr.Pala Ramasamy, Advocate, Sr No.56745

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.57117

WP(MD)No.22118 of 2018

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