



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.09.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 19829 of 2019

Ramaraj

... Petitioner

/Vs./

1. The Tahsildar,
Taluk Office,
Sankarankovil Taluk,
Tirunelveli District.

2. The Deputy Tahsildar (Head Quarters),
Taluk Office,
Sankarankovil Taluk,
Tirunelveli District.

3. The Village Administrative Officer,
Perumbathur Village,
Sankarankovil Taluk,
Tirunelveli District.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order of 1st respondent dated 16.08.2019 in Muu.Mu.Aa1/3645/2019 and quash the same and consequently direct the respondents to issue the legal heir certificate of the deceased Karuppan, who the father of the petitioner based on the petitioner's application dated 13.07.2018.

For Petitioner : Mr.V.Muthuvelan

For Respondents : Mr.Aayiram K.Selvakumar

Additional Government Pleader

ORDER

Mr.V.Muthuvelan, counsel on record for writ petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, who accepts notice on behalf of all the three respondents are before this Court.

2. With the consent of learned counsel on both sides, main writ petition is taken up, heard out and being disposed of.

3. Considering the narrow compass on which instant writ petition now turns, it will suffice to give short facts shorn of unnecessary details.

4. Suffice to say that writ petitioner is son of one Mr. Karuppan, who died on 28.09.2011. Writ petitioner in his



capacity as son of Mr.Karuppan applied to the first respondent on 13.07.2017 for legal heir certificate.

5. In response to writ petitioner's application for legal heir certificate, first respondent passed an order on 16.08.2019 bearing 'Reference No.Moo.Mu.No.Aa1/3645/2019' (hereinafter referred to as 'impugned order' for the sake of brevity) stating that writ petitioner should approach Civil Court as it comes to light that aforesaid deceased Mr.Karuppan had two (2) wives namely, Meenakshi and Sivani.

6. Instant writ petition has been filed assailing the impugned order.

7. Learned counsel for writ petitioner submits that in his aforesaid application for legal heir certificate dated 13.07.2017, writ petitioner has clearly mentioned names of both the wives of his father, and has also clearly mentioned that both of them are now nomore. It is submitted that all children ie., Class-I legal heirs of Mr.Karuppan have been shown in the application and therefore, legal heir certificate is for all the children through both the wives.

8. It is further submitted by learned counsel for writ petitioner that the writ petitioner is Mr.Karuppan's son through second wife namely Sivani. Other children of Mr.Karuppan through his first wife, namely Meenakshi have also been shown in the application. It is submitted that there is no dispute among the surviving legal heirs of Mr.Karuppan and according to the learned counsel for writ petitioner, all the Class-I legal heirs have been shown in the application for legal heir certificate.

9. State counsel, who accepted notice on behalf of all the three (3) respondents placed before this Court a Circular bearing Circular No.11/2017 dated 09.07.2018 bearing reference No.Na.Ka.No.Va.Ni.5(3)/180/2017 issued by Revenue Commissioner. Relevant portion of the said Circular is Paragraph No.7 and the same reads as follows:

“7.பொதுவான அறிவுரைகள்

வட்டாட்சியர்கள் கீழ்க்கண்ட இனங்களுக்கு
சான்று வழங்கக் கூடாது. மனுதாரரை உரிய நீதிமன்றம் முலம் சான்று
பெற்றுக் கொள்ள அறிவுறுத்த வேண்டும்.

- இறந்தவருக்கு ஒன்றுக்கும் மேற்பட்ட மனைவியோ கணவரோ இ
ருக்கும் போது
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10. It is submitted by State counsel that it is in obedience to the aforementioned circular issued by the Revenue Commissioner that the first respondent has passed the impugned order.

11. Responding to the above submission, learned counsel for writ petitioner, drew the attention of this Court to an order dated 28.08.2018 made in W.P.(MD)No.16826 of 2018 made by a Hon'ble Single Judge of this Court.

12. A perusal of the order reveals that the facts are similar to instant case. Most relevant portions of the said order made by a Hon'ble Single Judge are Paragraph Nos.6 to 8, which read as follows:

'6. Upon notice, Mr.M.Jeyakumar, learned Additional Government Pleader, entered appearance and he would produce a Circular, dated 09.08.2017, issued by the Department. Clause No.7 of the said Circular is extracted hereunder:"7) General instructions:

Tahsildars shall not issue legal heir certificates for the following cases and to inform the applicants to approach the Competent Court for obtaining the legal heir certificates.

- (i) If more than one wife / husband exist for the deceased.*
- (ii) ...*
- (iii) ..."*

Therefore, by relying on the said Circular, the respondents have rejected the petitioner's claim.

7. At this juncture, the learned counsel for the petitioner would submit that the said Circular can be applied only when there are rival claimants and the wives of the deceased husband are alive. In this case, both the wives died long ago and there was also no dispute in regard to the claim of succession. Therefore, it is imperative on the part of the respondents to conduct an enquiry before taking any decision. The respondents cannot shirk their statutory responsibilities and summarily reject, with wooden approach, what is mentioned in the application.

8. This Court has considered the rival submissions and is in full agreement with the submissions made by the learned counsel for the



petitioner.'

13. This Court does not find any convincing reason in the instant case for taking a different view. To be noted, this is in the light of facts and circumstances of the instant case.

14. In the light of the narrative thus far, the following order is passed:

(a) impugned order is set aside.

(b) matter is remitted back to the first respondent with a direction to conduct a suitable enquiry and issue legal heir certificate to the writ petitioner subject to outcome of the enquiry and all other requirements being satisfied.

(c) aforesaid exercise shall be completed by the first respondent as expeditiously as possible and in any event, within eight (8) weeks from the date of receipt of a copy of this order.

15. Instant Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Tahsildar,
Taluk Office, Sankarankovil Taluk, Tirunelveli District.
- 2.The Deputy Tahsildar (Head Quarters),
Taluk Office, Sankarankovil Taluk, Tirunelveli District.
- 3.The Village Administrative Officer, Perumbathur Village,
Sankarankovil Taluk, Tirunelveli District.

+1 cc Mr. M.MUTHUVELAN ,Advocate, SR.No. 87055
+1cc to M/s.Special Government Pleader,SR.No. 87559

W.P.(MD)No.19829 of 2019
17.09.2019

SM

KK/SAR/04.10.2019/4P-6C

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