



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.43 of 2020

and

W.M.P.No.46 of 2020

K.Tamilselvi
W/o.Late Kalaiyarasu
No.117, Flat No.2, 8th Street
Shridi Sai Nagar, Poonamallee
Chennai-600 056.

...Petitioner

.Vs.

1.The Tahsildar
Poonamallee.

2.The Sub-Collector
Thiruvallur.

3.V.Kalavathi
D/o.Sabapathi
No.93, Bharathidasan Street
Sadasivam Nagar
Near Vedachalam Park
Orikki PO
Kancheepuram Town & Taluk

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandmuas, to call for the records of the 2nd respondent in connection with the impugned order passed by him in Na.Ka.No.1503/2019/A4 dated 04.11.2019 and quash the same and direct the respondents 1 & 2 to issue the Legal Heir Certificate of late Kalaiyarasu in favour of the petitioner within a reasonable time.

For Petitioner : Mr.M.Muthappan
For Respondents: Mr.M.D.Ilayaraja
Government Advocate
for R1 & R2

O R D E R

This matter is taken up for hearing through Video Conferencing mode.



2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the 1st and 2nd respondents.

3. Though notice was issued to the third respondent, she refused to accept the same.

4. This writ petition is filed challenging the order of the second respondent dated 4.11.2019 in an appeal, refusing to issue Legal Heirship Certificate to the petitioner on the death of one Kalaiyarasu.

5. The facts projected by the petitioner is as follows:

The said Kalaiyarasu married the third respondent and a decree of divorce was granted to them in H.M.O.P.No.72 of 2005 dated 20.02.2006 on the file of the Sub-Court, Kancheepuram. After the said decree of divorce, the said Kalaiyarasu married the petitioner and thereafter, he died on 31.10.2018. Therefore, the petitioner claims that the third respondent having got divorce, the petitioner being the wedded wife of the said Kalaiyarasu, is entitled to get Legal Heir Certificate. The Tahsildar, rejected the said request and an appeal preferred before the second respondent was also rejected.

6. In the counter affidavit filed by the second respondent, it is stated that there are two daughters born through the third respondent to the said Kalaiyarasu, which is not revealed by the petitioner and therefore, the petitioner is not entitled to get sole Legal Heirship Certificate in her name alone.

7. A careful perusal of the impugned order passed by the second respondent would show that the third respondent did not appear for enquiry before the second respondent, despite repeated notices. However, considering the submissions made in the counter affidavit by the second respondent that there are two daughters born through the third respondent to the said Kalaiyarasu and further considering the fact that the decree of divorce was granted between the said Kalaiyarasu and the third respondent on 20.02.2006 as stated supra, this Court is of the view that the Tahsildar has to conduct fresh enquiry by giving notice to all the parties and thereafter, pass a fresh order on merits and in accordance with law as to who are the legal heirs of the deceased Kalaiyarasu. It is open to the petitioner as well as the other parties to place the material documents in support of their claim before the Tahsildar at the time of enquiry.

8. Accordingly, the Writ Petition is allowed and the impugned order of the second respondent is set aside and the



matter is remitted back to the first respondent for fresh consideration as stated supra. The first respondent shall pass such order after conducting due enquiry as stated supra and hearing all the parties concerned. Such exercise shall be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Tahsildar
Poonamallee.

2.The Sub-Collector
Thiruvallur.

+1cc to Mr.M.Muthappan, Advocate, Sr.No.30657

W.P.No.43 of 2020

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