

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.20388 of 2013

&

M.P.Nos.1 & 2 of 2013

Tmt.Nathakumari

...Petitioner

vs

1. The Thasildar,
Taluk Office,
Saidapet, Chennai.

2. M.Suriyakumari

3. Jothishree

4. Sasikala

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the proceedings of the 1st respondent in D.Dis. NO.13788/96-A10 dated 3.10.1996 issuing legal heir certificate in the name of respondents 2 to 4 and quash the same and to pass suitable orders which are deemed to be fit and proper to the circumstances of the same.

For Petitioner : Ms.V.S.Usharani

For R1 : Mr.V.Shanmugasundar

Special Government Pleader

For RR2 to 4 : Mr.Ravi Chandran - No appearance

ORDER

This writ petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

2. The petitioner states that she is the wife of one Hemadri having married on 02.02.1958. Out of the wedlock, a daughter and two sons were born, namely, Premalatha, Suresh Kumar and Sambath Kumar. The husband of the petitioner had died on 29.08.1996. He had also duly nominated the petitioner and her sons, to receive the family pension. While so, the second respondent had filed O.A.No.11 of 2011 before the Central Administrative Tribunal seeking a direction against the employer of the petitioner's deceased husband and sought for 50% Family Pension claiming to be the third wife of the deceased person. The said application was rightly dismissed on 20.12.2010. Challenging the said order,

the second respondent preferred W.P.No.23497 of 2012 and this Court dismissed the said writ petition also holding that she is not a legally wedded wife.

3. In the meanwhile, the respondents 2 to 4 have obtained legal heirship certificate from the first respondent on 03.10.1996 suppressing the fact that the first wife and the children are alive. Immediately, the petitioner seems to have filed an Original Suit in O.S.No.262 of 2012 before the learned I Additional District Munsif, Coimbatore against her sons declaring herself and her daughter as legal heirs of the deceased husband. The suit was decreed on 10.04.2013. Now, it is stated that under the guise of wrong legal heir certificate obtained by the respondents 2 to 4, they are trying to mutate all the revenue records in their names in respect of immovable properties standing in the name of the petitioner's deceased husband. Therefore, the petitioner has approached this Court for Certiorari to quash the legal heir certificate issued by the first respondent in D.Dis.No.13788/96/A-10 dated 03.10.1996.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. The petitioner, who has filed the original suit, unfortunately had not added the respondents 2 to 4 in the suit. The suit has been decreed ex-parte in their favour. The earlier order passed in the writ petition also has considered the status of the petitioner as the legal heir of the deceased Hemadri.

6. From the affidavit, it is seen that the impugned legal heir certificate was obtained by the second respondent claiming to be the third wife, which at no stretch of imagination, is admissible in law.

7. The government had issued guidelines, which have to be followed by the Revenue officials, while considering the issuance of legal heir certificate in G.O. (Ms) No.2906 dated 04.11.1981 which was once again reinstated in the government letter No.1534 dated 28.11.1991. The first respondent has not even cared to look into the said guidelines much less follow the same.

8. Therefore, without going into the merits of the case, the legal heirship certificate issued by the first respondent on 03.10.1996, is set aside and the first respondent is directed to consider the matter afresh, after issuing notice to the petitioner as well as the respondents 2 to 4. The petitioner, is at liberty to produce all the documents including the judgment obtained by her and other relevant documents to establish her right as legal heirs of the deceased Hemadri. The first

respondent is directed to give an opportunity of personal hearing to all the parties concerned and consider them in the light of the G.Os. that are issued from time to time, and then issue a legal heirship certificate appropriately to the eligible legal heirs. The said exercise has to be completed by the Tahsildar within a period of four months from the date of receipt of a copy of this order.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

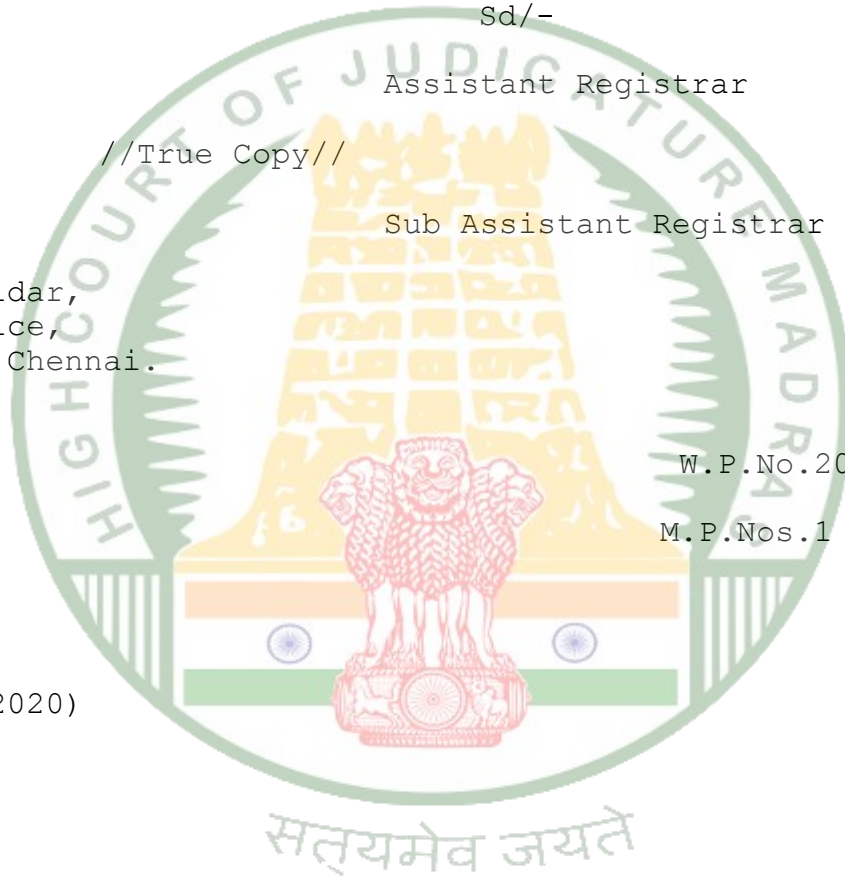
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Sub Assistant Registrar

To
The Thasildar,
Taluk Office,
Saidapet, Chennai.

W.P.No.20388 of 2013
&
M.P.Nos.1 & 2 of 2013

BS (CO)
RV (12.10.2020)



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