

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.9214 of 2019 and
WMP.Nos.9758 and 9761 of 2019

1. M.Sindhuja
 2. M.Sinduri
 3. Minor.M.Rohith Ramanan .. Petitioners
- ..Vs..
1. The District Collector,
Thiruvallur District,
Thiruvallur.
 2. The Revenue Divisional Officer,
Ponneri Taluk,
Thiruvallur District.
 3. The Tahsildar,
Ponneri Taluk,
Thiruvallur District.
 4. The Inspector of Police,
Sozhavarm Police Station,
Sozhavaram,
Thiruvallur District.
 5. The Deputy Director,
DNA Division,
Tamil Nadu Forensic and Science Department,
Mylapore,
Chennai - 600 004.
 6. P.Indirani
 7. Sri Narayana Balaji ..Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the order in Na.Ka.No.661/2019/Aa1, dated 01.03.2019 passed by the 2nd respondent and quash the same and consequently direct the 3rd respondent to issue legal heir certificate duly including the names of the petitioners.

For Petitioner : Mr.Gnanasekar.M

For Respondents : Mr.R.Govindasamy (R1 to R5)
Additional Government Pleader
Mr.S.Jeyakumar (for R6 and R7)

O R D E R

The three writ petitioners namely M.Sindhuja, M.Sinduri and M.Rohith Ramanan who was minor at the time of filing the writ petition and represented by his natural guardian and mother M.Navneetham claimed that their father is late S.Mani. Unfortunately the 7th respondent Sri Narayana Balaji also claimed that his father's name is S.Mani, since the 6th respondent P.Indirani had a relationship with S.Mani. However, in the cause title, the 7th respondent has been show as a son of P.Arumugam. Naturally this gives rise to a disputed fact.

2. The writ Court cannot decide the above disputed fact. It should be decided by the competent civil Court.

3. It is stated that the father S.Mani had filed a petition in H.M.O.P.No.4442 of 2011 under Section 13(1)(1) and 13 (1) (b) of the Hindu Marriage Act 1955 against the 6th respondent P.Indirani, in which the family Court, Chennai has given a direction to the 6th respondent, to undergo for a DNA test to prove the paternity of the 7th respondent. But, such DNA test has not been conducted till this date. Thereafter the said Mani had died.

4. However, it is the claim of the learned counsel for the petitioners that the DNA sample of their father is preserved by the Deputy Director, DNA Division, Tamil Nadu Forensic Department, Chennai -600 004. Again this Court cannot enter into that issue regarding the relationship. The DNA test can be performed only under the direction of the competent Civil Court by way of adducing evidence or pleadings.

5. The learned counsel for the petitioners stated that originally after the death of S.Mani, there was a relief sought to hand over the dead body to the mother Navaneetham. Thereafter the body was handed over to her. Now, the learned counsel seeks grant of legal heirship certificate. Again when there is a rival claim that can be decided only by the competent Civil Court.

6. Therefore, this Court cannot enter into a discussion into the controversy to determine the paternity. Determining the legal heirs of late.S.Mani under Article 226 of Constitution of India, the petitioners if they deemed necessary, may approach the competent Civil Court or if they feel it alright, then enter into a compromise with any of the respondents. This Court is not a place to agitate the issue.

7. Recording the above, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

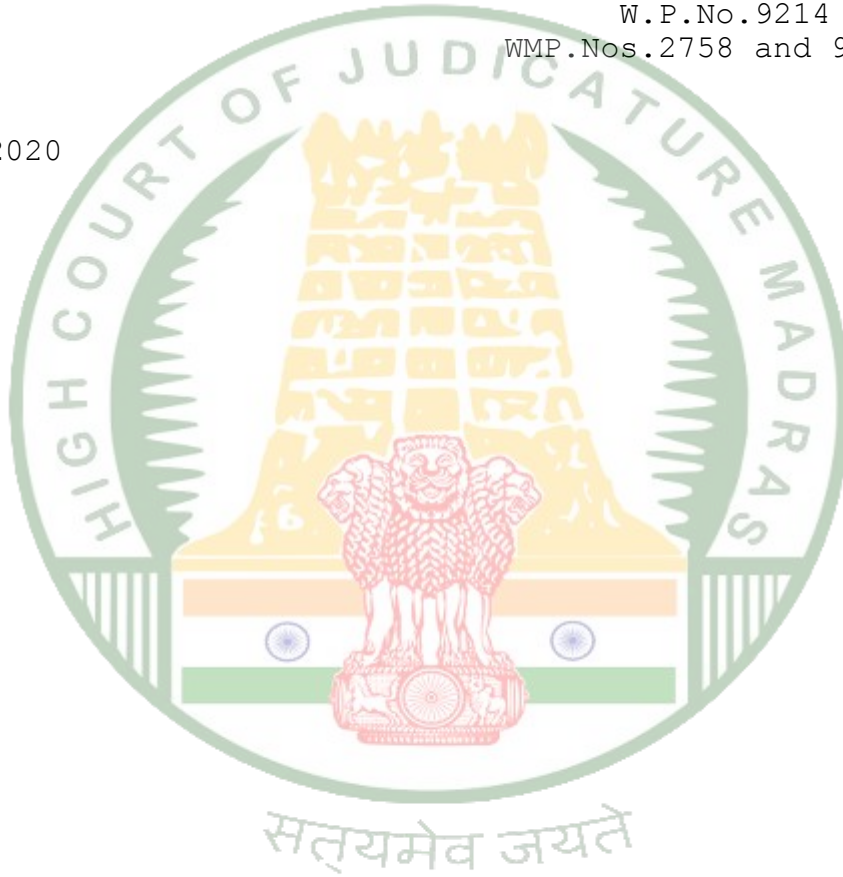
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+1cc to Mr.M.Gnanasekar, Advocate sr.5559
+1cc to Mr.S.Jeyakumar, Advocate sr.5701
+1cc to Government Pleader SR.NO. 6666

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sj(co)
nr 21/02/2020



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