

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.7336 of 2014

Rani

...

Petitioner

Vs

1.The Tahsildhar,
Beach Road,
Cuddalore.

2.A.Desigan

....

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st respondent herein to delete the name of the 2nd respondent from the legal heir certificate issued by him for the death of the petitioner's husband.

For petitioner : Mr.N.Suresh

For respondents : Mr.R.S.Selvam

Additional Government Pleader (R1)
: No Appearance (R2)

ORDER

This Writ Petition has been filed for a Mandamus to direct the first respondent to delete the name of the second respondent from the legal heirship certificate issued by him for Jothimani, the petitioner's husband who died on 08.12.2013.

2. It is the case of the petitioner that her husband Jothimani died on 08.12.2013 leaving behind herself and her two daughters namely Selvi. Nithiyashri and Selvi. Krishnapriya as his only class I legal heirs. However, according to the petitioner, by total non application of mind and in violation of law, the first respondent has issued legal heirship certificate for her husband Jothimani including the name of the second respondent who is the father of her late husband as one of the legal heirs.

3. Aggrieved by the same, the petitioner gave a representation to the first respondent on 25.02.2014 and according to her, there was no response from the first respondent for the said representation.

4. In such circumstances, this Writ Petition has been filed for a Mandamus to direct the first respondent to delete the name of the second respondent as one of the legal heirs of the deceased Jothimani.

5. Heard Mr.N.Suresh, learned counsel for the petitioner and Mr.R.S.Selvam, learned Additional Government Pleader for the first respondent. Despite service of notice on the second respondent and a counsel having entered appearance on his side, there is no representation on his behalf today.

6. Admittedly, father of the deceased person under Hindu law is not a class I legal heir. In the case on hand, the husband Jothimani died leaving behind his wife/petitioner herein as well as his two daughters named Selvi. Nithiyashri and Selvi. Krishnapriya as the only class I legal heirs. However, the first respondent has issued legal heirship certificate for Jothimani on 30.01.2014 disclosing that the second respondent/father of the deceased Jothimani is also a legal heir. Only when there are no class I legal heirs, a legal heirship certificate can be issued disclosing the names of class II legal heirs. Since admittedly the petitioner as well as her two daughters are the only class I legal heirs, by total non application of mind and without following the provisions of the Hindu Succession Act 1956, the first respondent has erroneously included the name of the second respondent as one of the legal heirs in the legal heirship certificate for the deceased Jothimani.

7. For the foregoing reasons, a direction is issued to the first respondent to delete the name of the second respondent from the legal heirship certificate issued by him for Jothimani and reissue a fresh legal heirship certificate to the petitioner disclosing that the petitioner and her two daughters as the only legal heirs for the deceased Jothimani within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

mpa

To

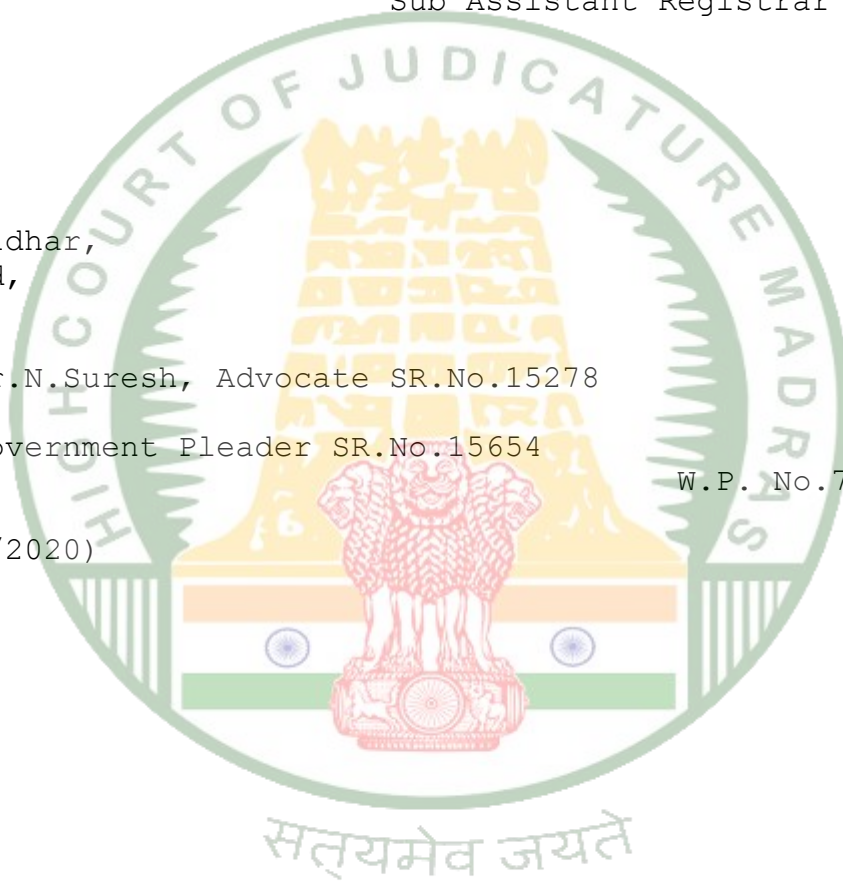
The Tahsildhar,
Beach Road,
Cuddalore.

+1cc to Mr.N.Suresh, Advocate SR.No.15278

+1cc to Government Pleader SR.No.15654

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MG (CO)
GMY (20/03/2020)



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