

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.17419 of 2020

Chinnathayi Ammal

... Petitioner

.Vs.

1. The District Collector,
Namakkal District.
2. The District Revenue Officer,
Namakkal District.
3. The Revenue Divisional Officer,
Namakkal District.
4. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.
5. Padma
6. Uma
7. Maheswari
8. Krishnaveni

... Respondents

PRAYER: The Writ Petition has been filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the entire records which culminated in issuing the impugned legal heir certificate bearing Certificate No.TN720190510224 dated 27.05.2019 on the file of the fourth respondent, recognizing the respondents 5 to 8 herein as legal heirs of the deceased Raji @ Rajagopal and quash the same.

For Petitioner : Mr.E.Manikandan
For Respondents
1 to 4 : Mr.R.S.Selvam,
Government Advocate

O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorari to call for the entire records which culminated in issuing the impugned legal heir certificate

bearing Certificate No.TN720190510224 dated 27.05.2019 on the file of the fourth respondent, recognizing respondent Nos. 5 to 8 herein as legal heirs of the deceased Raji @ Rajagopal and quash the same.

2. According to the petitioner, the husband of the petitioner viz., Raji @ Rajagopal deserted the petitioner and her children in the year 1985. Without annulling the marriage existed between them, the petitioner started to live with the fifth respondent in Namakkal District and got children/respondent Nos. 6 to 8 herein through the fifth respondent. The husband of the petitioner, in his ancestral property, relinquished his half share in favour of the son of the petitioner viz., Jadal on 09.09.2007 and executed relinquishment deed in document No.3083/2007 in Book I in the office of the Sub-Registrar, Sankarapuram.

3. The learned counsel for the petitioner submits that based on the above relinquishment, the son of the petitioner mutated the revenue records and obtained Joint Patta Nos.744 and 1001 stand in the name of himself and his father. Thereafter, the husband of the petitioner died in 2013. The respondent Nos. 5 to 8 obtained legal heir certificate on 27.05.2019 as only legal heirs from the fourth respondent herein without disclosing the petitioner as the first wife of the deceased and her children. The petitioner obtained legal heir certificate from the Tahsildar, Sankarapuram, including respondent Nos. 6 to 8. Later, she came to know that respondent Nos.5 to 8 already obtained the legal heir certificate from the fourth respondent without including the petitioner's family. Hence, she filed an appeal before the third respondent to cancel the legal heir certificate already issued by the fourth respondent, but, the same has not been done so far. Challenging the same, the present Writ Petition has been filed.

4. Heard the learned counsel appearing for the petitioner and Mr.R.S.Selvam, learned Government Advocate appearing for respondent Nos. 1 to 4.

5. The legal heir certificate, which was issued on 27.05.2019 has been challenged by the petitioner. Whenever the Tahsildar issued a legal heir certificate, the same is appealable before the Revenue Divisional Officer, who is the third respondent herein.

6. Admittedly, the petitioner has preferred an appeal before the Revenue Divisional Officer on 14.09.2020, which is still pending. The learned counsel for the petitioner would also restrict his prayer only seeking a direction to dispose of the above appeal filed before the Revenue Divisional Officer.

7. In view of the above facts, the Revenue Divisional Officer/ the third respondent herein is directed to dispose of the appeal filed by the petitioner dated 14.09.2020 against the issuance of legal heir certificate No.TN720190510224 dated 27.05.2019, after affording an opportunity of personal hearing to all the persons concerned within a period of six (6) weeks from the date of receipt of a copy of this order and pass appropriate orders on merits.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Namakkal District.
2. The District Revenue Officer,
Namakkal District.
3. The Revenue Divisional Officer,
Namakkal District.
4. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

+lcc to M/s.E.Manikandan, Advocate, S.R.No.39772

+lcc to the Government Pleader, S.R.No.40092

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