

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.28317 OF 2019

AND

WMP NO.27995 OF 2019

1. B.Kasthuri

2. B.Santhi

.. Petitioner

..Vs..

1. The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

2. Revenue Divisional Officer,
Guindy, Chennai - 600 033.

3. The Principal Secretary/Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.

.. Respondents

PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the proceedings of the 1st respondent in his office ref:Na.Ka.No.E1/005/2019 dated 24.01.2019, quash the same and directing the 1st respondent to issue the legal heir certificate recognizing the 1st petitioner namely B.Kasthuri, three daughters born to the 1st petitioner namely B.Saraswathi, B.Laths and B.Mahalakshmi and the two daughters born to the 2nd petitioner namely B.Dhanalakshmi and B.Jayapriya as the legal heirs of the deceased R.D.Boobalan, son of Duraisamy, No.5/2, Jayaraman Street, West Mambalam, Chennai - 600 033, within the time that may be fixed by this Court.

For Petitioner : Mr.P.Mani

For Respondent : Mr.R.Govindasamy
Additional Government Pleader

O R D E R

The writ petition has been filed in the nature of Certiorarified Mandamus, questioning the order of the 1st respondent namely the Tahsildar, Mambalam Taluk, Chennai 600 078 dated 24.01.2019 and issue further directions to the said official to grant legal heir certificate with respect to the death of R.D.Boobalan who resided on 5/2, Jayaraman Street, West Mambalam, Kodambakkam, Chennai 600 033. The said R.D.Boobalan died on 21.10.2018.

2. The writ petition has been filed by two petitioners namely B.Kasthuri and B.Santhi. They both claimed to be the wives of R.D.Boobalan. B.Kasthuri is the first wife and B.Santhi is the second wife. Three daughters were born to B.Kasthuri and two daughters were born to B.Santhi. Naturally, when the legal heir certificate was sought to be obtained from the Tahsildar, Mambalam Taluk, Chennai, the 1st respondent herein, by the impugned order, he refused to give the same and on the other hand, directed the parties to approach the Civil Court, obtain a declaration as regards the legal heirs and then approach the Revenue Department. That procedure appeared to be little complicated. The second petitioner namely the second wife B.Santhi however filed an affidavit that she is not exercising any right insofar as the issue of legal heirs is concerned.

3. Pursuant to the same, the affidavit has been filed by B.Santhi, the second wife wherein she had given a list of legal heirs of R.D.Boobalan who died on 21.10.2018. The names are given below:

- (i) B.Kasthuri, Aged 59 years - 1st wife
W/o. R.D.Boobalan
- (ii) S.Saraswathi, Aged 39 years, - 1st wife's daughter
W/o Sasikumar
- (iii) B.Latha, Aged 35 year - 1st wife's daughter
W/o. Suresh
- (iv) M.Mahalakshmi, Aged 33 years - 1st wife's daughter
W/o. Mohan
- (v) B.Dhanalakshmi, Aged 19 years - 2nd wife's daughter
D/o R.D.Boobalan
- (vi) B.Minor D.Jayapriya Aged 15 years- 2nd wife's daughter
D/o R.D.Boobalan

4. Mr.R.Govindasamy, learned Additional Government Pleader who had taken notice on behalf of the respondents pointed out that when there is a dispute among the legal heirs and there is more than one wife then necessarily in accordance with the circular already issued, the parties will have to approach the Court, seeking declaration and only thereafter, the legal heir Certificate will be issued. It was also pointed out that the Tahsildar cannot suo moto act as a Civil Judge, enquire into the matter and determine the legal heirs. That would be beyond the powers of the Tahsildar, discharging the duties of a quasi judicial official.

5. At any rate in the present case, since the parties have themselves given the list of legal heirs and there is no contestor claim questioning that and more particularly since the second wife namely B.Santhi has also not claimed to include her as a wife/the legal heir of R.D.Boobalan, a mandamus is issued to the 1st respondent namely the Tahsildar, Mambalam Taluk, Chennai 600 078 to reconsider the application, seeking legal heir Certificate of R.D.Boobalan, and if necessary, issue notice for appearance of the two petitioners herein and satisfy himself with respect to the legal heirs and also to the fact that the second petitioner B.Santhi had given up the claim of wife of R.D.Boobalan and thereafter pass appropriate orders with respect to the application seeking legal heirship Certificate on or before 31.03.2020.

6. With the above observation, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.
2. Revenue Divisional Officer,
Guindy, Chennai - 600 033.

3. The Principal Secretary/Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.

+1cc to Mr.P.Mani, Advocate, S.R.No.9396

+1cc to the Government Pleader, S.R.No.10387

W.P.No.28317 of 2019 and
WMP No.27995 of 2019

NRL (CO)
CS/20/02/2020



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