



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.41 of 2020

Mookammal

.. Petitioner

Vs.

The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent passed in his impugned order in O.Mu.A2/16002/16, dated 22.11.2016 and quash the same and consequently direct the respondent to issue legal heir certificate to the petitioner for her husband, late Muthiah Moopanar, Son of Poovalinga Moopanar, who died on 23.08.2005, by considering the petitioner's representation, dated 04.11.2016.

For Petitioner: Mr.A.Ramalingam

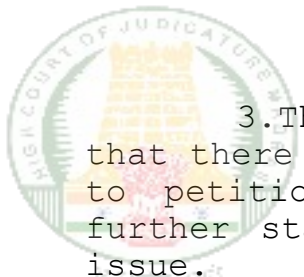
For Respondents: Mrs.J.Padmavathy Devi

Special Government Pleader

ORDER

The petitioner has filed this writ petition for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent passed in his impugned order in O.Mu.A2/16002/16, dated 22.11.2016 and quash the same and consequently direct the respondent to issue legal heir certificate to the petitioner for her husband, late Muthiah Moopanar, Son of Poovalinga Moopanar, who died on 23.08.2005, by considering the petitioner's representation, dated 04.11.2016.

2.The petitioner states that she is the wife of one Muthiah Moopanar, who died on 23.08.2005. It is also admitted by the petitioner that the said Muthiah Moopanar who is the son of Poovalinga Moopanar, married originally one Chinammal, who is also a relative of the petitioner, about 75 years back. It is further admitted that through the said Chinammal, the petitioner's husband had two male children. It is the specific case of the petitioner that Chinammal died about 65 years back and that thereafter, the petitioner's husband married the petitioner as his second wife. It is stated that out of the wedlock, the petitioner gave birth to six male children and four female children. After the death of Muthiah Moopanar, the petitioner applied for Legal Heirship Certificate before the respondent. The petitioner's application shows the name of children of petitioner's husband both born to the first wife and second wife. However, by the impugned order, dated 22.11.2016, the request of the petitioner was declined by the Tahsildar on the ground that the petitioner cannot get Legal Heirship Certificate as she is the second wife and that she can approach the Civil Court to get her status declared. Challenging the order of the respondent, the above writ petition is filed.



3.The learned counsel appearing for the petitioner states that there is no objection from any body including the children born to petitioner's husband through first wife Chinnammal. It is further stated that this Court had occasion to deal with similar issue.

4.The petitioner who is the second wife of late Muthiah Moopanar is a legally wedded wife and her marriage is legally valid. She married her husband only after the life time of the first wife. It is stated that the first wife died long back. In such circumstances, the petitioner is also a Legal Heir and entitled to get the Legal Heirship Certificate along with other legal heirs. The reason made by the respondent that the petitioner being the second wife should approach the Civil Court, cannot be sustained, in view of the settled principles and several precedents of this Court, which had occasion to deal with similar issue and allowed the writ petition filed by the second wife, who married her husband after the life time of the first wife.

5.Considering the facts that are narrated before this Court, the learned Special Government Pleader has no serious objection to set aside the order and remand the matter to the respondent with a direction to consider the representation afresh in the light of the precedents relied upon by the petitioner. Accordingly, the impugned order passed by the respondent is set aside. The respondent is directed to consider the application for Legal Heirship Certificate based on merits. If the petitioner establishes by document that the first wife of Late Muthiah died long back and that the petitioner had married after the life time of first wife, she is entitled to claim herself as a wife of Late Muthiah. There is no dispute with regard to the other legal heirs who are the children born to the said Muthiah through the first and second wife. Hence, the respondent is directed to pass appropriate order after considering the judgments of this Court in similar cases on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

6.With the above directions, this writ petition is allowed.
No costs.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

The Tahsildar, Ambasamudram Taluk, Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-283[F] dated 06/01/2020)

+1 CC to M/s.A.RAMALINGAM, Advocate (SR-375[F] dated 06/01/2020)

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