



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.06.2020
CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.6392 of 2020

WEB COPY

V.Aliya Natchiyar

... Petitioner

vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The District Collector,
Madurai District,
Madurai.

3. The Revenue Divisional Officer,
Arupukkottai Taluk,
Virudhunagar District.

4. The Tahsildar,
Arupukottai Taluk,
Virudhunagar District.

5. The Revenue Divisional Officer,
Madurai North Taluk,
Madurai District.

6. Mrs.Kala

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to decide the legal heir status of the petitioner brother K.Boominathan as unmarried in the legal heir certificate of the father of the petitioner M.Karuppaiyathevar issued by the Tahsildar, Arupukottai dated 21.03.2016 based on the representation of the petitioner dated 21.11.2019 and 21.12.2019 and 13.01.2020.

For Petitioner : Mr.S.Ramsundarvijayaraj
for M/s.Veera Associates

For Respondents : Mr.S.Dayalan,
Govt. Advocate [for R1 - R5]

O R D E R

Writ petition had been filed in the nature of a Mandamus directing the respondents to decide the legal heir status of the brother of the petitioner by name K.Boominathan, particularly to



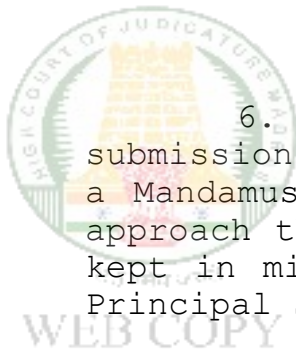
give a declaration that the said K.Boominathan died unmarried in the legal heirship certificate of M.Karuppaiyathevar.

2. The petitioner in the affidavit filed in support of the writ petition has stated that she is the only daughter of M.Karuppaiyathevar and Avudayammal. She also had four brothers, namely, Veerabathiran, Mariappan, Karuppasamy and Boominathan. She was married to Mr.Vellaichamy, who was working in Government Rajaji Hospital at Madurai. Both the parents died more than ten years ago. Later her brothers Mariappan and Karuppasamy also died. It is claimed that her brother Boominathan was unmarried and he was under her care and guidance from five years of age. She had educated him. She had got him employment as Assistant, in Madurai Corporation Co-operative Thrift Society, through the Employment Exchange in 1994. He died consequent to an accident and health problems on 12.12.2017. The petitioner performed the final rituals and ceremonies.

3. It is claimed that as the Class II legal heir of her brother, she had filed Succession Original Petition before the Principal Sub Court in Madurai, in S.O.P.No.19 of 2018, seeking to declare her as the legal heir of her brother. The said S.O.P.No.19 of 2018 is pending. In the meanwhile, the 6th respondent / Mrs.Kala, who is described as wife of Mr.Kannan, and working as daily wage labour in Madurai Corporation, also obtained a legal heirship certificate, claiming that she was married to Boominathan. She had also obtained a ration card and also a legal heirship certificate. This had created problems. Now there are two legal heirship certificates issued, in one, K.Boominathan was shown as unmarried and in the other, K.Boominathan was shown as married to the 6th respondent Mrs. Kala. It is under these circumstances, the petitioner had come forward before this Court seeking a declaration against the respondents to decide the marital status of K.Boominathan and to decide which one of the two legal heirship certificate is a correct legal heirship certificate.

4. This Court is handicapped in issuing a Mandamus to the respondents, because, such an issue cannot be decided on the basis of the documents. It is an issue which has to be decided only during the course of trial. Opportunity must be given to both the parties to adduce evidence, both oral and documentary to substantiate their rival claims. The evidence adduced must also be subjected to cross examination. Documents produced by both the sides will have to be admissible evidence, will have to be proved in manner known to law and will have to be relevant to the issues raised.

5. These all aspects which only a Civil Court can undertake. The Writ Court cannot give a Mandamus to the respondents. The respondents, also, on the basis of documents cannot decide, which one of the two legal heirship certificate is the correct document.



6. In view of these facts, I am not able to concur with the submissions made by the learned counsel for the petitioner to issue a Mandamus. **Writ Petition is dismissed**, relegating the parties to approach the competent Civil Court for necessary relief. It must be kept in mind that S.O.P.No.19 of 2018 is already pending with the Principal Sub Court, Madurai. No Costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.SPL GP (SR-13052[F] dated 03/06/2020)

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