



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P. (MD)No.16289 of 2020

U.Sandhya

... Petitioner

Vs.

The Tahsildar,
Madurai North Taluk,
Madurai North Taluk Office,
Madurai Collectorate Campus, Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the respondent passed passed in Na.Ka.No.4062/2020 A5 dated 01.10.2020 and quash the same as illegal and consequently direct the respondent to issue Legal Heir Certificate as per the letter submitted by the petitioner to the respondent on 11.09.2020.

For Petitioner : Mr.C.Guhaseelarupan

For Respondents : Mrs.M.Rajeshwari,
Government Advocate.

ORDER

(This petition was heard through video conferencing)

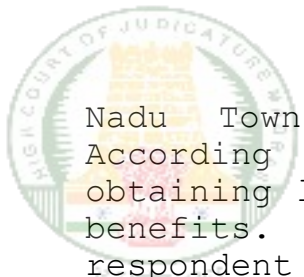
This writ petition has been filed challenging the order dated 01.10.2020, rejecting the application of the petitioner for issuance of legal heir certificate for her deceased husband namely G.Umakanthan, who died on 05.04.2020

2.Heard Mr.C.Guhaseelarupan, learned counsel for the petitioner. Mrs.M.Rajeswari, learned Government Advocate, accepts notice on behalf of the respondent.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.It is the case of the petitioner that her husband G.Umakanthan had been working as an Executive Officer in the Tamil Nadu Government Service.

<https://hcservices.ecourts.gov.in/hcservices/>



Nadu Town Panchayat Department and he died on 05.04.2020. According to the petitioner, she submitted an application for obtaining legal heir certificate for the purpose of getting pension benefits. However, the said application was rejected by the respondent stating that the said G.Umakanthan, was having two wives and has directed the petitioner to approach the Civil Court for obtaining a legal heirship certificate. According to the petitioner, the impugned order, passed by the respondent is not valid and not in accordance with Circular No.11/2017, dated 09.08.2017, which empowers the respondent to issue the legal heirship certificate. In such circumstances, this writ petition has been filed, challenging the impugned order.

5.This Court has perused and examined the impugned order. G.Umakanthan had been working as an Executive Officer in the Tamil Nadu Town Panchayat Department and he died on 05.04.2020. According to the petitioner, she filed an application for obtaining legal heir certificate for the purpose of getting pension benefits. But, as seen from the impugned order, the aforementioned factors have not been considered by the respondent, while rejecting the application submitted by the petitioner, for the legal heirship certificate of G.Umakanthan. The only reason given by the respondent for the rejection of the legal heirship certificate is that the deceased person has two wives and therefore, the petitioner will have to approach the Civil Court for getting the legal heirship certificate. Excepting for this reason, the contentions raised by the petitioner in this writ petition has not been duly considered by the respondent under the impugned order. However, this Court cannot issue a positive direction directing the respondent to issue a legal heirship certificate for G.Umakanthan. It is for the respondent to consider all the documents relied upon by the petitioner, on merits and in accordance with law and thereafter decide, whether the petitioner is entitled to the legal heirship certificate for G.Umakanthan or not. Since the contentions of the petitioner have not been considered and sufficient opportunity was also not given to her to place her submissions and all necessary parties were also not heard, the impugned order is arbitrary and violates the principles of natural justice.

6.For the foregoing reasons, the impugned order dated 01.10.2020, passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration. The respondent after giving sufficient opportunity to the petitioner, as well as the other legal heirs of the deceased G.Umakanthan, as well as the other aggrieved parties, shall pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



7. With the aforesaid direction, this writ petition is disposed of. No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2020

Sub Assistant Registrar(CS)

Gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Tahsildar,
Madurai North Taluk,
Madurai North Taluk Office,
Madurai Collectorate Campus, Madurai.

+1 CC to SGP (SR-22377[F] dated 20/11/2020)

W.P. (MD)No.16289 of 2020

SJ(CO)

NR (04/12/2020) 3P : 3C