

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.793 of 2020
and
WMP Nos.956 and 17427 of 2020

A.Zahurunnisa

...Petitioner

Vs

1. The District Collector,
Collectorate of Chennai,
Singaravelar Maaligai,
No.62, Rajaji Salai,
Chennai - 600 001.

2. The Tahsildar,
Taluk Office,
Tondiarpet,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the order of rejection passed by the 2nd respondent in my application No.TN-720190318993, dated 18.03.2019, for issuance of legal heirship certificate for my late husband, A.Akbar Basha and quash the same and consequently direct the 2nd respondent to conduct a proper enquiry and issue legal heirship certificate, within a stipulated time frame fixed by this Court.

For petitioner

For respondents

... Mr.A.M.Rahamath ali

... Mr.K.Parameshwaran,

Government Advocate for RR1 & 2

ORDER

This writ petition has been filed challenging the order dated 18.03.2019 passed by the second respondent rejecting the petitioner's application seeking for issuance of Legal Heirship Certificate for her late husband A.Akbar Basha.

2. It is the case of the petitioner that she is the legally wedded wife of A.Akbar Basha, who died on 25.01.2019. It is her case that she married A.Akbar Basha after the death of his

first wife. It is stated that out of the first marriage with Zaibunnissa, Akbar Basha, the deceased had four children, viz., a. A. Ibrahim, b. A.Riyaz, c. A. Aslam and d. A.Zakir.

3. According to the petitioner, the first wife of Akbar Basha died on 29.08.2005 and she married him on 04.08.2006, after the death of the first wife. The petitioner has applied for Legal Heirship Certificate to the second respondent for Akbar Basha. By the impugned order, the said application was rejected on the ground that the petitioner is the second wife of the deceased. Aggrieved by the same, this writ petition has been filed on the ground that the impugned order has been passed arbitrarily and by total non application of mind.

4. Heard Mr.A.M.Rahamath Ali, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate appearing for the respondents before this Court.

5. Before this Court, an affidavit has been filed by the children of the first wife of A.Akbar Basha viz., a. A. Ibrahim, b. A.Riyaz, c. A. Aslam and d. A.Zakir, giving their no objection for issuance of Legal Heirship Certificate for Akbar Basha, based on the petitioner's application. Admittedly, the petitioner has also produced before this Court the death certificate of Zaibunnissa, the first wife of A.Akbar Basha, which confirms that Zaibunnissa died on 29.08.2005. The death certificate of A.Akbar Basha has also been produced by the petitioner before this Court, which confirms that Akbar Basha died on 25.01.2019. The marriage certificate of the petitioner has also been produced before this Court which confirms that the petitioner married Akbar Basha on 04.08.2006 only after the death of his first wife. All these factors have not been considered by the second respondent while passing the impugned order rejecting the petitioner's application seeking for issuance of Legal Heirship Certificate for Late Akbar Basha. Arbitrarily and by total non application of mind, the impugned order has been passed on the ground that the petitioner being the second wife of the deceased is not entitled for Legal Heirship Certificate.

6. For the foregoing reasons, the impugned order dated 18.03.2019 passed by the second respondent is hereby quashed and the matter remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on merits and in accordance with law on the petitioner's application seeking for issuance of Legal Heirship certificate for her husband Late A.Akbar Basha after hearing the petitioner as well as the other Legal Heirs of the deceased and other necessary parties if any, within a period of ten weeks from the date of receipt of a copy of this order.

With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

vsi2
To

Sub Assistant Registrar

1. The District Collector,
Collectorate of Chennai,
Singaravelar Maaligai,
No.62, Rajaji Salai,
Chennai - 600 001.

2. The Tahsildar,
Taluk Office,
Tondiarpet,
Chennai.

+1cc to Mr.A.M.Rahamath Ali, Advocate, S.R.No.4262

gsm(CO)
rv(11/02/2021)

W.P. No.793 of 2020

सत्यमेव जयते

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