



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-10-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.27766 of 2013

Mrs.Indirani

...Petitioner

VS.

1.The Thasildar,
Fort Tondairpet Taluk,
Chennai - 600 003.

2.A.Queen Mary

3.A.Lelina (Minor),
Represented by Mother and Natural Guardian,
A.Queen Mary

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of the first respondent signed on 17.07.2013 bearing No.A6/6003/2013 and quash the same and further issued direction to the first respondent to issue Legal Heir Certificate to the petitioner.

For Petitioner : Mr.A.Prabhakaran

For Respondent-1 : Mr.K.M.D.Muhilan,
Government Advocate.

For Respondents-2&3 : Mr.M.G.Harikrishnan

O R D E R

The order of rejection of the application filed by the petitioner for grant of Legal Heir Certificate, is under challenge in the present writ petition.



2. The petitioner Smt.Indirani claims that she is the legally wedded wife of the deceased Mr.Alexendar and the marriage between the petitioner and the deceased Mr.Alexendar was solemnised on 18.06.1986. The marriage between the petitioner and the deceased Mr.Alexendar was registered.

3. After the death of her husband, the petitioner submitted an application for issuance of Legal Heir Certificate. During the relevant point of time, the second respondent claimed herself as the legally wedded wife of late Mr.Alexendar. The third respondent is the daughter born from and out of the relationship between the said late Mr.Alexendar and the second respondent.

4. The learned counsel for the petitioner states that the second respondent herself admitted the fact that she was a Concubine of the deceased Mr.Alexendar.

5. May that it be, the respondents 2 and 3 instituted a civil suit in O.S.No.114 of 2009. The Competent Civil Court dismissed the suit against the second respondent-first plaintiff Smt.A.Queen Mary and decreed the suit partly as against the second plaintiff. In other words, the second plaintiff is recognised as a daughter of late Mr.Alexendar and Smt.A.Queen Mary.

6. Based on the decree passed by the Civil Court, an application is made for the issuance of Legal Heir Certificate. However, the Tahsildar rejected the same without considering any of the documents and by merely stating that the second and third respondents are claiming as the wife and daughter of the deceased Mr.Alexendar.

7. This Court is of the considered opinion that the issues raised are adjudicated before the Competent Civil Court of Law and a decree is also passed. The suit itself was instituted for the relief of declaration to declare that the plaintiffs are the legal heirs of the deceased Mr.Alexendar and for mandatory injunction.

8. When the issues are framed in this regard by the Civil Court and adjudications were completed and decree is passed, the



said decree is to be considered by the Tahsildar for the purpose of issuance of Legal Heir Certificate.

9. In view of the fact that the petitioner has submitted the copy of the decree and judgment passed in the civil suit, the Tahsildar has to reconsider the application submitted by the petitioner. Further, it is to be clarified whether any appeal suit is filed against the judgment and decree passed in the civil suit.

10. Under these circumstances, the petitioner is at liberty to submit a fresh application along with all necessary documents to the first respondent-Tahsildar, within a period of four weeks from the date of receipt of a copy of this order. On receipt of any such application along with relevant documents from the petitioner, the first respondent-Tahsildar is directed to conduct an enquiry and consider all the documents on merits and pass appropriate orders regarding issuance of Legal Heir Certificate, within a period of eight weeks therefrom. In view of the said directions, the impugned order passed by the first respondent in proceedings bearing No.A6/6003/2013 dated 17.07.2013 is quashed.

11. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CCC)

// True Copy //

Sub Assistant Registrar

Svn

To

The Thasildar,
Fort Tondairpet Taluk,
Chennai - 600 003.

+1cc to Mr.D.Kanagasundaram, Advocate SR.No.54552
+1cc to the Government Pleader SR.No.55119

W.P.No.27766 of 2013

GSM(CO)
RVM(10/11/2021)