



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.34942 OF 2013

AND

M.P.NOS.1 & 2 OF 2013

- 1.S.Saraswathi
- 2.S.Deepa
- 3.S.Aravind Kumar

... Petitioners

Vs

1. The Tahsildar,
Office of the Tahsildar,
Vandavasi, Vandavasi Taluk,
Thiruvannamalai District,
Pincode - 604 408.
2. Asst. Elementary Education Officer,
Thellar, Vandavasi Taluk,
Thiruvannamalai District,
Pincode - 604 406.
3. Office of the Principal Accountant General [A&E],
Rep. by its Asst. Accounts Officer,
Teynampet, Chennai - 600 018.
4. S.Kalaivani
5. District Collector,
Office of the District Collector,
Thiruvannamalai District,
Pincode - 606 601.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing No.O.Mu.Aal/8267/2013 dated 01.10.2013 from the 1st respondent, to quash the same and consequently direct the 2nd and 3rd respondents to disburse the terminal benefits of the 1st petitioner's late husband to the petitioners.



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For Petitioners	:	Mr.N.G.R.Prasad for M/S.Row and Reddy
For Respondents		
R1, R2 & R5	:	Mrs.N.Senthil Selvi Government Advocate
R3	:	Mrs.T.S.Selvarani
R4	:	Mr.M.Thirumalai

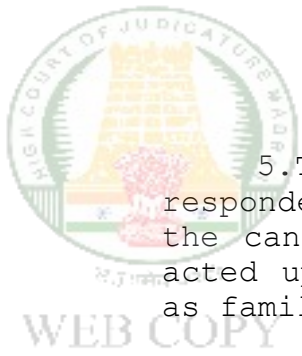
ORDER

The cancellation of legal heir certificate issued by the first respondent, Tahsildar in proceedings dated 01.10.2013 is under challenge in the present writ petition.

2. The first petitioner, Smt.Saraswathi, admittedly the second wife of late K.Sekar, who was working as Head master in Gangem Poondi Government School. The first wife of the deceased employee was late Smt.Sivagami. The first wife died in the year 1985 and the deceased employee married the first petitioner Sm.Saraswathi after the demise of the W.P.No.34942 of 2013 first wife. After the death of the employee, the legal heirs submitted an application for grant of legal heir certificate. The Tahsildar issued a legal heir certificate in proceedings dated 10.05.2013 based on the application submitted by the first petitioner. The fourth respondent, Smt.S.Kalaivanai is admittedly the daughter of the deceased first wife and she made an objection before the Tahsildar stating that the first petitioner Smt.Saraswathi misrepresented her status as the first wife of the deceased K.Sekar and obtained the legal heir certificate. The Tahsildar conducted an enquiry and thereafter cancelled the legal heir certificate issued in proceedings dated 10.05.2013.

3. The learned counsel appearing on behalf of the petitioners made a submission that all the legal heirs have been included in the legal heir certificate and there is no impediment for the purpose of acting upon such legal heir certificate.

4.The learned Government Advocate made a submission that the objections raised by the fourth respondent Smt.S.Kalaivani was considered by the competent authorities and the legal heir certificate was cancelled on the ground that the name of the first wife has not been incorporated in the legal heir certificate and it is further mentioned as if the first petitioner Sm.Saraswathi is the only wife of the deceased employee K.Sekar. Therefore, the legal heir certificate issued was improper.



5.The learned counsel appearing on behalf of the third respondent, Accountant General made a submission that based on the cancelled legal heir certificate dated 10.05.2013, they had acted upon and settled the Death- cum-Gratuity benefits as well as family pension in favour of the first Petitioner.

6.This Court is of the considered opinion that admittedly the deceased employee had two wives, the first wife Smt.Sivagami died in the year 1985 and after her death, the employee married the first petitioner, Sit.Saraswathi. Thus, the second marriage is a legally solemnized marriage and there is no dispute regarding the marriage between the deceased employee and the first petitioner. Further, the fourth respondent, Smt.S.Kalaivani, admittedly is the daughter of the first wife, Smt.Sivagami and that fact has not been clearly mentioned in the legal heir certificate. This apart, the legal heir certificate indicates as if the first petitioner Smt. Saras wathi is the only wife of late K.Sekar which is not proper. In fact, the name of the deceased first wife must have been mentioned in the legal heir certificate, so also the name of the second wife for the purpose of acting upon such legal heir certificate. Therefore, there is no infirmity as such in respect of the order impugned passed by the Tahasildar cancelling the legal heir certificate.

7.In view of the pendency of the writ petition and due to cancellation of the legal heir certificate, the parties are unable to receive their dues and unable to settled the issues between them. Under these circumstances, the first respondent, Tahsildar is directed to conduct an enquiry once again by affording an opportunity to all the parties and thereafter take a decision for issuing legal heir certificate by following the procedures as contemplated. The said exercises directed to be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. The petitioners as well as the fourth respondent are expected to co-operate for the enquiry and place their objections or otherwise for the purpose of effective adjudication of the issues between the parties.

8.With these directions, the writ petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Office of the Tahsildar,
Vandavasi, Vandavasi Taluk,
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Pincode - 604 408.
2. The Asst. Elementary Education Officer,
Thellar, Vandavasi Taluk,
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3. Office of the Principal Accountant General [A&E],
Rep. by its Asst. Accounts Officer,
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4. The District Collector,
Office of the District Collector,
Thiruvannamalai District,
Pincode - 606 601.

+1cc to M/s.Row and Reddy, Advocate, S.R.No.67140

+1cc to the Government Pleader, High Court, Madras, S.R.No.67092

W.P.No.34942 of 2013

CP(CO)
RLP(03/01/2022)