

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.7343 of 2020

and

WMP No.8777 of 2020

Christina

.... Petitioner

Vs

1. The Tahsildar,
Puruasawakkam,
Nehru Park,
Chennai - 600 001.

2. Pension Pay Officer,
Pension Pay Office,
Chennai - 600 006.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for records of the first respondent in TN-72019004436, dated 4.10.2019 and in TN-202002242228, dated 24.02.2020 and direct the first respondent to issue legal heirship certificate of the deceased S.Balammal based on the documentary evidence of Deed of Adoption in favour of the petitioner within a time frame.

For petitioner

... Mr.K.S.Govinda Prasad

For respondents

... Mr.K.Parameshwaran,
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 24.02.2020 passed by the first respondent rejecting the petitioner's application dated 19.02.2019 seeking for issuance of Legal Heirship certificate for S.Balammal, who died on 12.09.2015.

2. It is the case of the petitioner that she is the adopted daughter of S.Balammal, who died on 12.09.2015. It is also her case that the said Balammal is the sister of the petitioner's paternal grandmother and was working as a Nursing Superintendent Grade II, Government Mental Hospital, Kilpauk, Chennai -10 and she retired from service on 31.07.1995. It is also stated in the affidavit filed in support of the writ petition that S.Balammal, married one K.Nirmalan on 08.02.1973 and the said marriage broke down and they were living separately, within a month from the date of their marriage. According to the petitioner, she was adopted by Balammal in the year 1995 through a registered deed of adoption, dated 01.03.1995 registered as document No.99 of 1995 in S.R.O., Purasawakkam.

3. According to the petitioner, S.Balammal died on 12.09.2015 at the age of 79 years and during her last years, she was affected with Parkinson disease and died due to Cardiac failure. So, she was unable to nominate a nominee in respect of her death benefits.

4. According to the petitioner, she applied for Legal Heirship certificate with the first respondent. However, according to her, under the impugned order, arbitrarily and by total non application of mind, without adhering to the principles of natural justice, the first respondent has rejected her application without assigning any proper reasons. In such circumstances, this writ petition has been filed.

5. Heard Mr. K.S.Govinda Prasad, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate appearing for the respondents.

6. This Court has perused and examined the impugned order. The impugned order is a non-speaking order and no proper reasons have been given for rejection of the petitioner's application seeking for issuance of Legal Heirship certificate for the deceased Balammal, who died on 12.09.2015. The petitioner claims that she is the adopted daughter of S.Balammal, under a registered deed of adoption on 01.03.1995. The petitioner also claims that Balammal (deceased) is the Sister of the petitioner's paternal grandmother. Under the impugned order, all these factors have not been taken into consideration by the first respondent. The documents that have been produced in the Typed set of papers filed along with this writ petition have also not been considered by the first respondent while rejecting the petitioner's application seeking for issuance of a Legal Heirship certificate for the deceased Balammal. Hence, this Court is of the considered view that the impugned order has been passed arbitrarily without adhering to the principles of natural

justice. The first respondent has also not afforded a fair hearing to the petitioner before passing the impugned order.

7. For the foregoing reasons, the impugned order will have to be quashed and the matter remanded back to the first respondent for fresh consideration on merits and in accordance with law after hearing all the necessary parties including the petitioner and other Legal Heirs of the deceased Balammal, if any.

8. In the result, the impugned order, dated 24.02.2020 is hereby quashed and the matter remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders on the petitioner's application seeking for the issuance of Legal Heirship certificate for S.Balammal, who died on 12.09.2015 on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after hearing all necessary parties including the petitioner and other Legal Heirs of the deceased Balammal, if any.

9. With the aforesaid direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Tahsildar,
Puruasawakkam,
Nehru Park,
Chennai - 600 001.

2. The Pension Pay Officer,
Pension Pay Office,
Chennai - 600 006.

+1cc to Mr.D. DANIEAL, Advocate, S.R.No.3594

UM(CO)
SM/16/02/2021

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