



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.36980 OF 2016

&

W.M.P.NO.31780 OF 2016

K.Thambusamy

... Petitioner

Vs.

1.The District Collector
Office of the Collectorate,
Chennai - 600 001.

2.The Tahsildar,
Egmore - Nungambakkam Taluk,
Egmore.

3.Santhiya

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to delete the name of the 3rd respondent from the original legal heirship certificate issued by the 2nd respondent in his proceedings vide Ni.Mu.E4/7825/2012 dated 20.04.2012.

For Petitioner : Mr.V.Karthikeyan

For Respondents 1 & 2 : Mr.C.Jayaprakash
Government Advocate

O R D E R

The Writ on hand has been instituted to quash the legal heirship certificate issued by the 2nd respondent on 20.04.2012, indicating the 3rd respondent as a widow of late T.Saravanan and for a direction to delete the name of the 3rd respondent from the original legal heirship certificate.



2. The petitioner is the father of the deceased T.Saravanan, who married the 3rd respondent on 29.01.2012. Unfortunately, the son of the petitioner, Saravanan died on 31.01.2012, just two days after the solemnization of the marriage between him and the 3rd respondent, Santhiya.

3. The grievances of the Writ Petitioner is that he has submitted an application for a grant of legal heirship certificate to the 2nd respondent. The 2nd respondent, Tahsildar issued an impugned legal heirship certificate on 20.04.2012, stating that the 3rd respondent, Santhiya as the wife of the deceased Saravanan and a widow.

4. The learned counsel for the petitioner has made a submission that on receipt of the legal heirship certificate, the petitioner submitted an objection to re-consider the same. However, the respondents have not initiated any action. Thus, the petitioner was constrained to move the present Writ Petition.

5. A counter filed by the 1st respondent reveals that the petitioner has been in the office of the District Collector and he has given statement with a request to cancel the legal heirship certificate, which includes the name of the 3rd respondent, as she has married another person and hence no longer the wife of the petitioner's deceased son, Saravanan.

6. However, the 3rd respondent had not appeared for enquiry inspite of several call letters sent from the office of the 1st respondent. Therefore, the objection of the petitioner was not considered.

7. Non appearance of the 3rd respondent before the Enquiry Officer would not result in denial of right to the petitioner. The right of the petitioner has to be considered with the facts and circumstances and in the event of non-appearance on the part of the 3rd respondent, the authorities are bound to proceed with enquiry and pass orders on merits and in accordance with law. In case the 3rd respondent had not appeared before the Enquiry Officer, the objections raised cannot be kept in abeyance or rejected when an application is submitted for cancellation of legal heirship certificate.

8. The marriage invitation of the petitioner's deceased son, Saravanan with Santhiya dated 29.01.2012 is enclosed. The said Saravanan died on 31.01.2012. The marriage of the 3rd respondent with one S.Prasad was solemnised on 20.11.2013 and the said marriage invitation is also enclosed in the typed set of papers filed along with the affidavit filed in support of the Writ Petition. Thereafter, the petitioner submitted an objection and



the said objection has not been considered.

9. In these circumstances, this Court is of the considered opinion that the legal heirship certificate issued by the 2nd respondent on 20.04.2012 cannot be sustained, as even before this Court, the 3rd respondent has not appeared.

10. This being the factum, the legal heirship certificate issued by the 2nd respondent on 20.04.2012 is quashed as far as the 3rd respondent is concerned and the matter is remitted back to the 2nd respondent for the purpose of conducting an enquiry based on the objections submitted by the petitioner and issue a fresh legal heirship certificate on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

11. With these observations, the Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Office of the Collectorate,
Chennai - 600 001.

2. The Tahsildar,
Egmore - Nungambakkam Taluk,
Egmore.

+1cc to Mr.V.Karthikeyan, Advocate, S.R.No.58458

+1cc to the Government Pleader, S.R.No.58502

W.P.No.36980 of 2016

GPL(CO)
RLP(01/12/2021)