



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 16190 of 2021

R. Gowri

.. Petitioner

Versus

1. The District Collector
Chengalpattu
Chengalpattu District.
2. The Tahsildar
Cheyyur
Chengalpattu District 603 302

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in Na.Ka.No.1828/2021/A4 dated 15.07.2021 and quash the same and consequently direct the second respondent to afford a personal hearing opportunity and to dispose the petitioner's representation dated 12.07.2021.

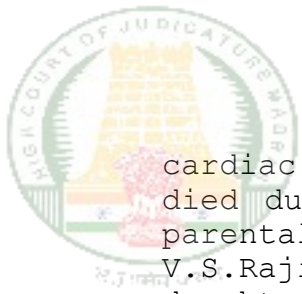
For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondents : Mr. G. Krishnaraja
Government Counsel

ORDER

This writ petition has been filed to quash the order dated 15.07.2021 passed by the second respondent and to consequently direct the second respondent to afford an opportunity of personal hearing and to dispose the petitioner's representation dated 12.07.2021.

2. According to the petitioner, she was married to one Chellappan and gave birth to two sons and one daughter. Subsequently, her husband died during the year 1986, due to



cardiac problem and thereafter, her son namely Ilayaraja also died during the year 1991. Therefore, she was living in her parental home along with her two children. While so, one V.S.Raji, S/o Subramani, who was a widower, having three daughters, approached the parents of the petitioner to marry the petitioner as his second wife. By consent of parents and relatives of both sides, their marriage was solemnised during the year 1993 and the said V.S. Raji adopted the daughter and son of the petitioner, as per the Hindu rites and customs. Out of the wedlock between the petitioner and the said Raji, the petitioner gave birth to another female child namely Sriranjani. Later, the petitioner's elder son Thangaraj died in a road accident during the year 2010. The petitioner treated all the daughters as her daughters and gave education to them, according to their wish. On 12.05.2021, the petitioner's husband V.S.Raji died and his father Subramani also died on 04.07.2021. His mother (mother-in-law of the petitioner) Boopathy is alive. The petitioner gave a representation to the second respondent on 12.07.2021 to grant legal heirship certificate by including all the legal heirs (7 members). When making application for the said legal heir certificate, the petitioner enclosed a declaration given by her husband Raji, while contesting the Assembly Election, in which, the petitioner was indicated as his wife. In spite of the production of several documentary evidence, the second respondent passed the order dated 15.07.2021, rejecting the request of the petitioner to issue legal heirship certificate. Hence, this writ petition.

3. The learned counsel appearing for the petitioner submitted that Thulasiammal, first wife of the deceased V.S.Raji died on 23.09.1990 itself and then only, the petitioner married the said V.S.Raji in the year 1993. Now, the mother of the deceased Raji, petitioner, two daughters born to the petitioner through her first husband and out of the wedlock of V.S. Raji and the three daughters of the said Raji through his first wife, are the legal heirs of the deceased Raji. Stating so, the petitioner submitted a representation to the respondents seeking legal heir certificate, but without considering the relationship among the parties, the second respondent passed the order of rejection on 15.07.2021, that too, without affording an opportunity of hearing to the petitioner. Thus, according to the learned counsel, the order impugned herein is arbitrary, illegal and in violation of principles of natural justice.

4. On the above contentions, heard the learned Government counsel appearing for the respondents and also perused the materials placed before this court.

5. It is seen from the impugned order that the second respondent passed the order dated 15.07.2021 rejected the claim



of the petitioner seeking legal heir certificate, stating that the deceased Raji has contracted two marriages and the petitioner is the second wife; and that, there are objections for grant of legal heir certificate to the petitioner; and therefore, the petitioner has to approach the Civil Court. According to the petitioner, she married the deceased Raji after the death of his first wife and hence, there is no embargo on the part of the respondents in considering the claim of the petitioner. Further, no one has objected to the issuance of legal heir certificate to her, however, it was recorded by the second respondent as if there are objections. In such circumstances, the respondents ought to have considered the claim of the petitioner and issued legal heir certificate.

6. This court is of the view that when there is any objection raised by any one, principles of natural justice demands that before passing an order against the applicant, an opportunity of hearing ought to have been given, enquiry conducted and documentary evidence must be permitted to be produced. In the present case, the second respondent, without affording any opportunity of hearing to the petitioner, passed the order dated 15.07.2021 refusing to issue legal heir certificate to the petitioner. Therefore, the order impugned herein, is liable to be set aside.

7. Accordingly, the order dated 15.07.2021 passed by the 2nd respondent is set aside and the matter is remitted back to the second respondent. The second respondent is directed to reconsider the claim of the petitioner, afford an opportunity of hearing to the petitioner, conduct an enquiry and ascertain whether any other legal-heirs are available to the deceased V.S. Raji and thereafter, pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

mst/rsh



To

1. The District Collector,
Chengalpattu,
Chengalpattu District.

2. The Tahsildar,
Cheyyar,
Chengalpattu District 603 302.

+1cc to M/s.S.Kaithamalai Kumaran, Advocate, S.R.No.44155

+1cc to the Government Pleader, S.R.No.44265

WP No. 16190 of 2021

VSN-II (CO)
SU (05/10/2021)