



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.17172 of 2021
and
WMP.Nos.18196 & 21926 of 2021

Saraswathi

Vs.

...Petitioner

1. The Revenue Divisional Officer,
Tiruppur District,
Tiruppur.

2. The Tahsildar,
Tiruppur Taluk,
Tiruppur District.

3. M.Balakrishnamoorthi

4. M.Muthu Avinasiyappan

5. M.Sivakrishnasami

6. L.Sulochana

7. B.Kalavathi

8. Jothimani

(Respondents 3 to 8 are impleaded vide
order dated 08.11.2021 in
WMP.No.21926 of 2021)

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records pertaining to the proceedings of the first respondent in Na,Ka,No.2664/2020/A1 dated 08.06.2021 and quash the same as illegal, incompetent and ultravires.



WEB COPY

For Petitioner : Mr.G.Thalamutharasu
for Mr.R.Jayaprakash

For Respondents : Mr.G.Krishnaraja R1 & R2
Government Counsel

Mr.Karthick Raja R3 to R8

O R D E R

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. 'M.Balakrishnamoorthi, M.Muthu Avinasiyappan, M.Sivakrishnasami, L.Sulochana, B.Kalavathi and Jothimani are impleaded as respondents 3 to 8 in this writ petition vide order dated 08.11.2021 in WMP.No.21926 of 2021.

3. This Writ Petition has been filed challenging the proceedings of the first respondent in Na,Ka,No.2664/2020/A1 dated 08.06.2021 and quash the same.

4. The case of the petitioner is that her husband died on 11.12.2019. After demise of the petitioner's husband, she applied for legal heirship certificate before the second respondent and the same was issued on 17.06.2020. However, the respondents 3 to 8 lodged a complaint before the second respondent to cancel the legal heir certificate issued in favour of the petitioner. In the meanwhile, the petitioner had filed a suit in O.S.No.263 of 2020 on the file of the learned Principal Sub Court, Tiruppur seeking for permanent injunction and also to declare that the legal heirship certificate issued by the second respondent is valid and the said suit is pending. While the matter stood thus, during pendency of the said suit, the second respondent has cancelled the legal heirship certificate on 08.06.2021 in favour of the petitioner. Challenging the said cancellation of legal heir certificate issued by the second respondent, the present writ petition has been filed before this Court seeking for appropriate directions.

5. The learned counsel for the petitioner submitted that the second respondent has issued a legal heirship certificate in favour of the petitioner after completing the necessary formalities. In order to grab the property of the petitioner, the respondents 3 to 8 made a complaint before the second respondent to cancel the legal heirship certificate. For the very same issue, the petitioner has filed a suit before the trial Court. In the meanwhile, the second respondent cancelled the petitioner's legal heir certificate, which is not correct.



Hence, this Court may quash the proceedings issued by the second respondent and pass appropriate orders.

6. The learned Government Advocate appearing on behalf of the respondents 1 & 2 submitted that the issue involved in the case is disputed question of fact. The petitioner has already filed a suit in O.S.No.263 of 2020 before the Principal Sub Court Tiruppur for permanent injunction and also to declare that the legal heirship certificate issued by the second respondent is valid. However, the said legal heirship petition issued in favour of the petitioner has also cancelled. Hence, this Court may issue a direction to the trial Court to dispose of the suit after affording opportunity to both the sides without influencing the order passed by the revenue officials.

7. Heard the learned counsel for the petitioner as well as the learned Government Counsel appearing for the respondents 1 & 2 and the learned counsel for the respondents 3 to 8 and perused the materials available on record.

8. On a careful perusal, it is seen that the first respondent issued a legal heir certificate in favour of the petitioner on 17.06.2020. Objecting the same, the respondents 3 to 8 have made a complaint before the first respondent and the said objection is pending. On the other hand, the petitioner filed a suit in OS.No.263 of 2020 on the file of the Principal Sub Court, Tiruppur for permanent injunction and also to declare that the legal heirship certificate issued by the second respondent is valid. During the pendency of the said suit, the impugned order has been passed by the second respondent is also subject matter of suit and outcome of the suit is binding on the first respondent. Since the parties have already approached the civil Court for getting appropriate relief and the relief sought for by the petitioner before this Court under Article 226 of the Constitution of India cannot be granted.

9. Considering the facts and circumstances of the case and without expressing any opinion on merits of the case, this Court directs the petitioner to canvas all the issue before the competent civil Court.

10. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar



rli

To

WEB COPY

1. The Revenue Divisional Officer,
Tiruppur District,
Tiruppur.
2. The Tahsildar,
Tiruppur Taluk,
Tiruppur District.

+1cc to the Government Pleader, S.R.No.57627

W.P.No.17172 of 2021
and
WMP.Nos.18196 & 21926 of 2021

PA[co]
NSK 05/01/2022