



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 19563 of 2021

J. Vasuki

.. Petitioner

Versus

The Tahsildar
Cheyyur
Cheyyur Taluk
Chengalpet District

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the order passed by the respondent in Na.Ka.No.2257/2021/A4 dated 03.08.2021 and direct the respondent to issue the legal heir certificate to the petitioner.

For Petitioner : Mr. R. Jaikumar
for M/s. T. Fenn Walter Associates

For Respondent : Mr.Stalin Abhimanyu
Government Counsel

O R D E R

According to the petitioner, her husband Janagiraman already married one Maheswari and out of the said wedlock, they got one female child by name Sharmila. The said Maheswari died on 15.07.2013. Thereafter, the said Janagiraman married the petitioner on 01.06.2014 as arranged by his parents and they were blessed with two female children. While so, the petitioner's husband died on 24.09.2020, leaving behind him, his parents, wife (petitioner), three daughters (one through first marriage and two from the second marriage with the petitioner). Subsequently, the petitioner made an application on 10.07.2021 to the respondent seeking to issue legal heirship certificate of her deceased husband. However, the said application was rejected

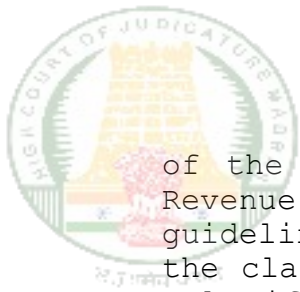


by the respondent, by communication dated 03.08.2021, stating that the deceased had two wives and the Tahsildar has no power to issue legal heirship certificate to the second wife and hence, the petitioner was directed to approach the competent civil court to get appropriate relief. Feeling aggrieved, the petitioner has come up with this writ petition to quash the said communication and consequently, direct the respondent to issue legal heirship certificate to her, within a time frame to be stipulated by this court.

2. The learned counsel for the petitioner submitted that the petitioner married her husband only on the death of his first wife and therefore, the marriage was perfectly valid in law and she is entitled to approach the respondent along with other legal heirs, for getting legal heirship certificate. However, without appreciating the factual circumstances and conducting proper enquiry, the respondent mechanically rejected the claim of the petitioner stating that the deceased had two wives and in that case, the Tahsildar has no authority to issue legal heir certificate and hence, the petitioner was directed to approach the competent civil court. The learned counsel further pointed out that clause 7 of the circular dated 09.08.2017 issued by the Commissioner of Revenue Administration, only states that the Tahsildar shall not issue legal heir certificate in respect of the claims when more than one wife exists for the deceased, whereas in this case, there is only one wife, who is claiming legal heir certificate along with other legal heirs and therefore, the said circular cannot be applicable to the facts of the present case. It is also submitted that in similar circumstances in WP(MD)No.18409 of 2018, this court, by order dated 19.09.2018, allowed the said writ petition by setting aside the similar rejection order and directing the Tahsildar concerned to conduct enquiry and issue legal heirship certificate, if there is no rival claims. Thus, according to the learned counsel, the writ petition is liable to be allowed by setting aside the communication impugned herein.

3. Heard the learned Government counsel taking notice for the respondent and also perused the documents enclosed in the typed set of papers, more particularly, the death certificate of first wife of the deceased and the marriage registration certificate of the petitioner.

4. Admittedly, the marriage between the petitioner and the deceased Janagiraman, took place, after the death of his first wife Maheswari and therefore, she is legally wedded wife of the deceased. Further, the petitioner applied for legal heirship certificate along with other legal heirs of the deceased and hence, there is no rival claim with respect to the claiming succession to the deceased. That apart, as per clause 7



of the circular dated 09.08.2017 issued by the Commissioner of Revenue Administration, relating to the procedures and guidelines to be followed by the Tahsildars, while considering the claim of legal heirship certificate, there is a prohibition, only if more than one wife exists for the deceased, whereas in this case, the petitioner is the only wife of the deceased. In such circumstances, the respondent cannot direct the petitioner to approach the competent civil court for appropriate relief, citing that her husband had two wives.

5. It is also to be noted that in the order dated 06.03.2020 passed in WP No. 5883 of 2020 (P. Riza Ahmed vs. The Tahsildar, Walajah Taluk, Walajah, Ranipet District), this Court, after analysing the various decisions in the field, has concluded that a Tahsildar is empowered to issue even Class II legal heir certificate, provided he is satisfied with the genuineness of the claim made by the applicant after conducting an enquiry. Only in cases where the Tahsildar is not satisfied with the genuineness of the claim, he can direct the applicant to approach the competent Civil Court. As such, this court is of the view that it is not proper on the part of the respondent, rejecting the petitioner's application seeking legal heirship certificate of her deceased husband, without ascertaining the factual matrix and conducting any enquiry and hence, the same warrants interference.

6. Accordingly, the communication dated 03.08.2021 which is impugned in this writ petition, is set aside and the matter is remanded back to the respondent for passing order afresh, with regard to issuance of legal heirship certificate of the deceased husband, after conducting enquiry and providing an opportunity of hearing to the petitioner as well as any other interested parties. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above said directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dhk



To

The Tahsildar
Cheyyur
Cheyyur Taluk
Chengalpet District

+lcc to the Government Pleader, S.R.No.53228

WP No. 19563 of 2021

MG (CO)
SU (02/11/2021)