



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 22841 of 2021

Alima Bee

... Petitioner

Versus

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 604.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Cheyyar,
Thiruvannamalai - 604 407.
3. The Tahsildar,
Tahsildar Office,
Vandavasi,
Thiruvannamalai - 604 408.
4. The Village Administrative Officer,
Peranmallur,
Vandavasi Taluk,
Thiruvannamalai District.

5. Mubeena

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 29.07.2021 and 16.09.2021 and to take proper action within a stipulated time.

For Petitioner : Mr. K. Kathiresan

For Respondents: Mr. Krishnaraja
Government Counsel for R1-R4



O R D E R

The present petition has been filed for issuance of Writ of Mandamus to direct the respondents 1 to 4 to consider the representations dated 29.07.2021 and 16.09.2021 of the petitioner and to take action thereof.

2. According to the petitioner, she married one R. Alla Bagash and out of such wedlock, two children were born and they are (i) Rasul (son) and (ii) Parveen (daughter). It is stated that the petitioner's son Rasul married one Mubeena, the fifth respondent herein and out of their wedlock, two children were born namely (1) Minor Afzal and (2) Minor Bushra. On 01.09.2020 the petitioner's son died and on 05.06.2021 her husband Alla Bagash died. The petitioner therefore submitted an application seeking to issue legal heir certificate along with the fifth respondent herein. On receipt of the application, the third respondent called the petitioner as well as the fifth respondent for an enquiry. Thereafter, a legal heir certificate was issued by the third respondent on 10.07.2021 in which the name of fifth respondent, her children the petitioner, her daughter and mother-in-law name were included. According to the petitioner, as per Muslim Law of succession and inheritance, where a son dies in the lifetime of father and before opening of succession, the grand children will be entirely excluded from inheritance. The grand-children of the pre-deceased son is not a heir as per Mohammadean Law. Any child born into a Muslim family does not get birth right over the inheritance of property. It is stated that the petitioner's husband Alla Bagash died on 05.06.2021 and her son Rasul died prior to the death of her husband on 01.09.2020. Therefore, the deceased Rasul has no right of inheritance to the estate of her husband's property and consequently, the fifth respondent and her two children have no right of succession from the property of her husband. The petitioner therefore submitted a representation on 29.07.2021 to the second respondent to issue a fresh legal heir certificate by incorporating her name as well as the name of her daughter and mother-in-law and by excluding the name of the fifth respondent and her two children. However, there was no response, hence, the petitioner submitted another representation on 16.09.2021 to all the respondents. As there was no response, she has filed the present writ petition before this Court.

3. Heard both sides and perused the materials placed on record. Considering the facts and circumstances of the case, this court, without expressing any opinion on the merits of the case, directs the second respondent to consider the petitioner's representation dated 29.07.2021, followed by a reminder letter



dated 16.09.2021 and pass appropriate order, on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioner as well as the fifth respondent, within a period of six weeks from the date of receipt of a copy of this order.

4. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dhk/rsh
To

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 604.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Cheyyar,
Thiruvannamalai - 604 408.
3. The Tahsildar,
Tahsildar Office,
Vandavasi,
Thiruvannamalai - 604 408.
4. The Village Administrative Officer,
Peranmallur,
Vandavasi Taluk,
Thiruvannamalai District.

+1cc to M/s.K.Kathiresan, Advocate Sr.54760
+1cc to the Government Pleader Sr.55865

WP No. 22841 of 2021

ksm[co]
srg 16/11/2021