



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2021

Coram

The Honourable Mr.Justice R.MAHADEVAN

W.P.No.21165 of 2021
and W.M.P.No.22453 of 2021

1.B.L.Vimala

2.Mrs.Lilli Mary

...Petitioners

Versus

The Thasildar,
Sholinganallur Taluk,
Chengalpattu District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to consider the petitioner's representation dated 22.02.2021 for issuance of Legal Heir Certificate of the deceased Balthasar, by adding the name of the 1st petitioner as Legal Heir.

For Petitioners : Mr.A.Prabhakaran

For Respondent : Mr.Stalin Abhimanyu,
Government Counsel

O R D E R

Mr.Stalin Abhimanyu, learned Government Counsel takes notice for the respondent. With the consent of both sides, this writ petition is taken up for final disposal, at the time of admission itself.



2.The relief sought in the present writ petition is to direct the respondent to consider the first petitioner's representation dated 22.02.2021 for issuance of Legal Heir Certificate of the deceased Balthasar, by adding her name as well.

3.It is the case of the first petitioner that she is the adopted daughter of one Balthasar and the second petitioner. They adopted her on 26.12.2001 from OLF Hospital at Porumamilla, Kadappa District, Andhra Pradesh as per the customs, but they did not execute an adoption deed. All these years, the first petitioner was under the care and protection of their adopted parents. While so, on 19.02.2015, the said Balthasar died intestate, leaving behind his adopted daughter/first petitioner, his wife/second petitioner and his mother Therasammal. Thereafter, in order to grab the properties and fixed deposits owned by him, one J.S.Albert, who is the uncle of the first petitioner, stated to have obtained a legal heir certificate of the deceased, without adding the first petitioner's name therein. Hence, the first petitioner made a representation dated 22.02.2021 enclosing all the necessary documents, wherein, the name of the deceased 'Balthasar' was specifically mentioned as her father and requesting to include her name as well, as one of the legal heirs of the deceased. Finding no response on the same, the petitioners have come up with this writ petition for the aforesaid relief.

4.The learned counsel for the petitioners contended that the first petitioner being an adopted daughter of the deceased Balthasar and the second petitioner, she has to be treated as their child and the respondent ought to have issued a legal heir certificate including her name as well. In support of his contention, the learned counsel placed reliance on a decision of this court in M.G.Mamtha and another v. Tahsilar, Dhenkanikottai Taluk Office, Krishnagiri District [2018 (1) CTC 814], wherein, following the judgment of the Supreme Court in Namdev Vyankat Ghadge v. Chandrakant Ganpat Ghadge [2003 (1) CTC 790 (SC) : 2003 (4) SCC 71], it was held that 'an adopted child from the date of the legal adoption, becomes the child of adoptive father or mother for all purposes since such child severed his or her ties in the family of his or her birth from the said day onwards; and consequently, all the ties of the child are replaced in the adoptive family created by adoption'. It was



further held that 'though such adopted child in the adoptive family, is not the child by biological creation, however, it should be born in mind that such adopted child is the child of the adoptive family by legal creation, which status certainly confers on such child all such rights as a biological child in the adoptive family'. Stating so, the learned counsel prayed for appropriate direction to the respondent by considering the claim of the petitioners.

5. On the other hand, the learned Government counsel taking notice for the respondent fairly submitted that the respondent would consider the representation dated 22.02.2021 made by the first petitioner and pass orders, on merits, within a time frame to be stipulated by this court.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court directs the respondent to consider the first petitioner's representation dated 22.02.2021 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioners as well as any other interested parties, within a period of eight weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

mrr
To
The Thasildar,
Sholinganallur Taluk,
Chengalpattu District.

+1CC to Mr.A.Prabhakaran, Advocate, SR.No. 51081
+1CC to The Government Pleader, SR.No. 51591

W.P.No.21165 of 2021

KV(CO)
B.VC (02/11/2021)