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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 21330 of 2021

1. R. Uma Rani
2. Sai Lakshmi. L.J

.. Petitioners

Versus

1.The District Collector
Chennai Collectorate
Chennai - 600 001

2.The Revenue Divisional Officer
Anna Salai, Guindy, Chennai - 600 032
Near The Tamilnadu Dr MGR Medical University

3.The Tahsildar
Amjikarai Taluk
36HF+37W, Gajalakshmi Colony
Kathiravan Colony, Shenoy Nagar
Chennai - 600 030

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in Application No. TN-7202107031829 dated 03.07.2021 as unconstitutional, void, illegal and arbitrary and to quash the same and direct the third respondent to issue the legal heirship certificate to the petitioners.

For Petitioners : Mr.David Tyagaraj

For Respondents : Mr. Stalin Abhimanyu
Government Counsel

O R D E R

The petitioners have come up with this writ petition seeking to issue a Writ of Certiorarified Mandamus to quash the order dated 03.07.2021 passed by the third respondent and to issue a consequential direction to the third respondent to issue legal heirship certificate to them.



2. According to the petitioners, Late. P. Ramraj and his wife R. Uma Rani (first petitioner herein) have legally adopted the second petitioner herein as their daughter and the said adoption was registered on 23.12.2009 on the file of Sub-Registrar, Anna Nagar. On 02.06.2021, the husband of the first petitioner and adopted father of the second petitioner namely P. Ramraj died. Thereafter, for the purpose of receiving family pension from the employer of the deceased namely General Manager, TANSI, the petitioners made online application for issuance of legal heirship certificate from the first respondent vide Application No. TN-7202107031829 dated 03.07.2021. However, the third respondent summarily rejected the application on the ground that the second petitioner is the adopted daughter of the child and therefore, legal heir certificate cannot be issued. Aggrieved against the order of rejection, the petitioners have come up with this writ petition.

3. The learned counsel for the petitioners submitted that in similar circumstances in WP. No. 27592 of 2017 [M.G. Mamtha and others v. Tahsildarm Dhenkanitkottai Taluk Office, Dhenkanikottai, Krishnagiri District] by order dated 06.02.2018, this court directed the respondent therein to grant legal heir certificate to the adopted child. The relevant passage of the said order is usefully extracted below:

"...13. At the same time, it is to be noted that a duty is cast upon the competent authority, before whom such an application is made, to get himself satisfied as to the genuineness of the supportive documents produced in support of such claim of adoption, like deed of adoption, etc. Only when such authority has any reasonable doubt in her mind with regard to genuineness of such adoption, that too, after conducting an enquiry in the locality, he can direct the parties to approach the civil court and get their rights established. Otherwise the Authority has to issue the Legal Heirship Certificate based on such documents. In this case, the Respondent has not doubted the genuineness of the documents produced by the Petitioners in support of their claim including the Deed of Adoption. Therefore, there cannot be any legal impediment for the respondent in issuing a legal heirship certificate to the petitioners, as sought for by them.

14. Accordingly, the Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Respondent to issue the Legal Heirship



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Certificate of the deceased Chandrasekar to the Petitioners. Such exercise shall be done by the respondent within a period of two weeks from the date of receipt of a copy of this Order. No costs."

4. The learned counsel for the petitioners also submitted that in similar circumstances in WP. No. 5065 of 2021 [R. Sudheer Babu v. The Tahsildar, Avadi Taluk] by order dated 05.03.2021, this court after analysing the facts and circumstances of the case had concluded that a Tahsildar of a Taluk is empowered to issue 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. The learned counsel for the petitioners therefore prayed for allowing the writ petition.

5. The learned Government Counsel appearing for the respondents, by placing reliance on the counter affidavit of the third respondent, would contend that the second petitioner is not the biological daughter of the deceased but she is the adopted daughter. To prove the manner in which she was adopted, there was no proof produced by them, particularly to show that the adoption was preceded by custom or usage applicable to the parties. Further, at the time of adoption of the second petitioner, she was 24 years old but as per Section 10 (iii) and 10 (iv) of The Hindu Adoptions and Maintenance Act, 1956, the adopted child should not have got married and not completed 15 years of age. Therefore, the learned Government Counsel appearing for the respondents would submit that the order of rejection dated 03.07.2021 passed by the third respondent is proper and therefore, he prayed for dismissal of the writ petition.

6. Heard the learned counsel for both sides and perused the materials placed. The first petitioner herein is the adopted mother. The second petitioner is the daughter adopted by the first petitioner and her husband Late. Ramraj Pakkirisami. In the affidavit filed in support of the writ petition, it is stated that the second petitioner's biological parents L.K. Jayakar and J. Sumathi have given her in adoption on 29.11.2009 and that, the first petitioner and her husband Late. Ramraj Pakkirisami have also executed a registered Deed of Adoption on 23.12.2009 which was registered as document No. 2227 of 2009 on the file of Sub-Registrar, Anna Nagar. However, the third respondent, while passing the order of rejection, has not considered the above documentary evidence filed by the petitioners. Further, the third respondent did not



conduct any enquiry before passing the order of rejection, which only states as follows:-

"Rejection, based on revenue inspector report and HQ Dt. report, deceased person is no issues. Legal heir Sai Lakshmi is adopted child. Hence applicant is to re-apply."

7. Thus, it is evident that in the order dated 03.07.2021, the third respondent did not assign any reason for rejecting the claim of the petitioners. However, in the counter affidavit, the third respondent has referred to the provisions contained under Sections 10 (iii) and 10 (iv) of The Hindu Adoptions and Maintenance Act, 1956 and the non-compliance of those requirements by the petitioners. In any event, before passing the order of rejection, the third respondent did not conduct any enquiry, afford an opportunity of hearing to the petitioners or consider the documentary evidence filed by the petitioners. Therefore, the order of rejection dated 03.07.2021 passed by the third respondent deserves to be set aside.

8. Accordingly, the order of rejection dated 03.07.2021 passed by the third respondent in Application No. TN-7202107031829 is set aside. The matter is remanded back to the third respondent for fresh consideration of the application submitted by the petitioners for issuing legal heir certificate. The third respondent is directed to conduct an enquiry, afford an opportunity of hearing to the petitioners, consider the documentary evidence that may be submitted by them and thereafter pass an order on merits and in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1.The District Collector,
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Chennai - 600 001.



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36HF+37W, Gajalakshmi Colony,
Kathiravan Colony, Shenoy Nagar,
Chennai - 600 030.

+2ccs to Mr.David Tyagaraj, Advocate Sr No.53988
+1cc to the Government Pleader Sr No.54656

WP No. 21330 of 2021

GP (CO)
PR (24/11/2021)