



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.24747 of 2021

and

W.M.P.NO.26025 of 2021

Vignesh

...Petitioner

Vs

1.The State of Tamil Nadu Represented by
Principal Secretary Cum Commissioner,
Disaster Management,
Chepauk, Chennai-600 005.

2. Tahsildar,
Ariyalur Town & District.

3. Anbukarasi

...Respondents

PRAYER: Petition under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the legal heir certificate number TN7202001211327 dated 03.02.2020 issued by the 2nd Respondent to the 3rd Respondent on account of the death of Mr. Ganaruban and quash the same.

For Petitioner : Mr. S. Jayavel

For 2nd Respondent : Mr. M. R. Gokulakrishnan,
Government Advocate

For 3rd Respondent : No Appearance

ORDER

The present petition seeking issuance of a Writ of Certiorari to call for the records pertaining to the legal heir certificate issued by the 2nd respondent in favour of the 3rd respondent on account of the death of the petitioner's father and quash the same.



2. Mr. M.R.Gokulakrishnan, Government Advocate takes notice the Respondents 1 & 2.

3. The case of the petitioner is that his mother namely Senthamarai is the legally wedded wife of the petitioner's father namely Gnanaruben who was former Government Servant and their marriage was solemnized on 29.11.1993 and the same was dissolved by decree in HMOP No.5/1997 on 18.03.1998 on the file of the Subordinate Judge Ariyalur. While being so, after the demise of said Gnanaruben, the 3rd respondent herein being a widow of a police staff had obtained the legal heir certificate in her favour from the 2nd respondent claiming that she is the wife of said Gnanaruben which led to the filing of suits and the same are pending. Subsequently, the 3rd respondent had filed W.P(MD)13731 of 2020 on the file of Madurai Bench of Madras High Court seeking disbursal of the family pension wherein the petitioner is alleged to be the son of one Chinnasamy. Hence, the present Writ Petition is filed seeking the above relief.

4. Learned counsel for the petitioner submits that the petitioner's mother Senthamarai is the legally wedded wife of his father Gnanaruben and the legal heir of said Gnanaruben are the petitioner and his mother and they are legally entitled to receive the family pension after the demise of her husband. However, the 3rd Respondent herein is falsely claiming that she is a legal heir of said Gnanaruben who is the father of the petitioner and had obtained the legal heir certificate from the 2nd respondent and same is liable to be quashed.

5. On the above contentions, this Court heard the learned counsel for the Respondents.

6. Though the submissions as above are made by the learned counsel on the either side, however the issuance of the legal heir certificate in favour of the 3rd respondent being a disputed question of fact, taking into consideration that suits are pending between the parties with regard to the legal heirs of the deceased, this Court is not inclined to go into the merits of the case and the prayer sought for by the petitioner cannot be acceded to. Since the dispute between the parties is civil in nature, this Writ Petition is dismissed and liberty is granted to the petitioner to work out his remedy before the competent civil forum in accordance with law.



7. Accordingly, this Writ Petition is dismissed with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

NHS
To

1.The State of Tamil Nadu Represented by
Principal Secretary Cum Commissioner,
Disaster Management,
Chepauk, Chennai-600 005.

2. The Tahsildar,
Ariyalur Town & District.

+1 CC to Mr.S.Jayavel, Advocate sr 60354
+1 CC to The Government Pleader sr 60648.

W.P.NO.24747 of 2021
and
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SVI (CO)
SP(20/01/2022)