

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.29604 of 2018

and

WMP No.34588 of 2018

Lakshmi

...Petitioner

Vs

1. The Tahsildar,
Thiruchengodu.

2. Pavayee @ Parvathi

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records pertaining to the letter No.4424/2018/A2 dated 12.06.2018 issued by the first respondent and quash the same and direct the first respondent to issue the legal heir certificate to the petitioner in the name of her husband namely late Sellappan.

For petitioner Mr.G.Murugendran
For respondent 1 Mr.K.Parameshwaran,
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 12.06.2018 passed by the first respondent rejecting the petitioner's representation seeking for issuance of legal heirship certificate for her husband (deceased) S.Sellappan on the ground that the petitioner was married to S.Sellappan (deceased) before getting divorce from his first wife.

2. It is the case of the petitioner that the marriage between of S.Sellappan (deceased) with the second respondent has been dissolved as per the order dated 16.06.2011 passed in HMOP.No.177 of 2010 on the file of the Sub Court, Namakkal. However according to the petitioner, under the impugned order dated 12.06.2018, the petitioner's application for legal heirship certificate for the deceased S.Sellappan was rejected by the first respondent arbitrarily and by total non application of mind to the order dated 16.06.2011 passed in HMOP.No.177 of 2010. Aggrieved by the same, this writ petition has been filed.

3. Heard Mr.G.Murugendran, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate for the first respondent. Since no adverse orders are going to be passed against the second respondent, notice to the second respondent is dispensed with by this Court.

4. The impugned order dated 12.06.2018 has been passed by the first respondents rejecting the petitioner's application seeking for issuance of legal heirship certificate for her husband S.Sellappan only on the ground that S.Sellappan was already married to the second respondent and therefore, the petitioner who claims to be the wife is not entitled for the same. The petitioner has placed before this Court the divorce order granted by the Sub Court, Namakkal in HMOP.No.177 of 2010 on 16.06.2011 wherein the marriage between S.Sellappan and the second respondent has been dissolved. The petitioner has also produced before this Court, a copy of the Aadhar card of the petitioner, a copy of death certificate of S.Sellappan, House Tax Receipt in the name of the petitioner, Family Card, Election Commission of India, Identity Card which disclose that S.Sellappan (deceased) is the husband of the petitioner. Since the marriage between S.Sellappan and the second respondent was dissolved on 16.06.2011, as seen from the order passed in HMOP.No.177 of 2010, the first respondent ought to have considered the same before passing the impugned order.

5. The first respondent ought to have also considered the aforementioned documents namely Aadhar card, death certificate of S.Sellappan, House Tax Receipt in the name of the petitioner, Family Card, and Election Commission of India, Identity Card before passing of the impugned order. However as seen from the impugned order, none of those documents were considered by the first respondent before rejecting the petitioner's application seeking for issuance of legal heirship certificate for her husband deceased S.Sellappan. Hence, this Court is of the considered view that the impugned order has been passed by total non application of mind to the documents placed by the petitioner before the first respondent referred to supra. Hence, the impugned order dated 12.06.2018 has to be necessarily quashed and the matter remanded back to the first respondent for fresh consideration on merits and in accordance with law after hearing all the necessary parties.

6. In the result, the impugned order dated 12.06.2018 is hereby quashed and the matter remanded back to the first respondent for fresh consideration of the petitioner's application seeking for issuance of legal heirship certificate for her husband (deceased) S.Sellappan who died on 22.02.2018 and pass final orders on merits and in accordance with law after hearing all the necessary parties including the petitioner as

well as the second respondent and after giving due consideration to the documents referred to supra in this order within a period of twelve weeks from the date of receipt of a copy of this Order.

7. With the aforesaid direction this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

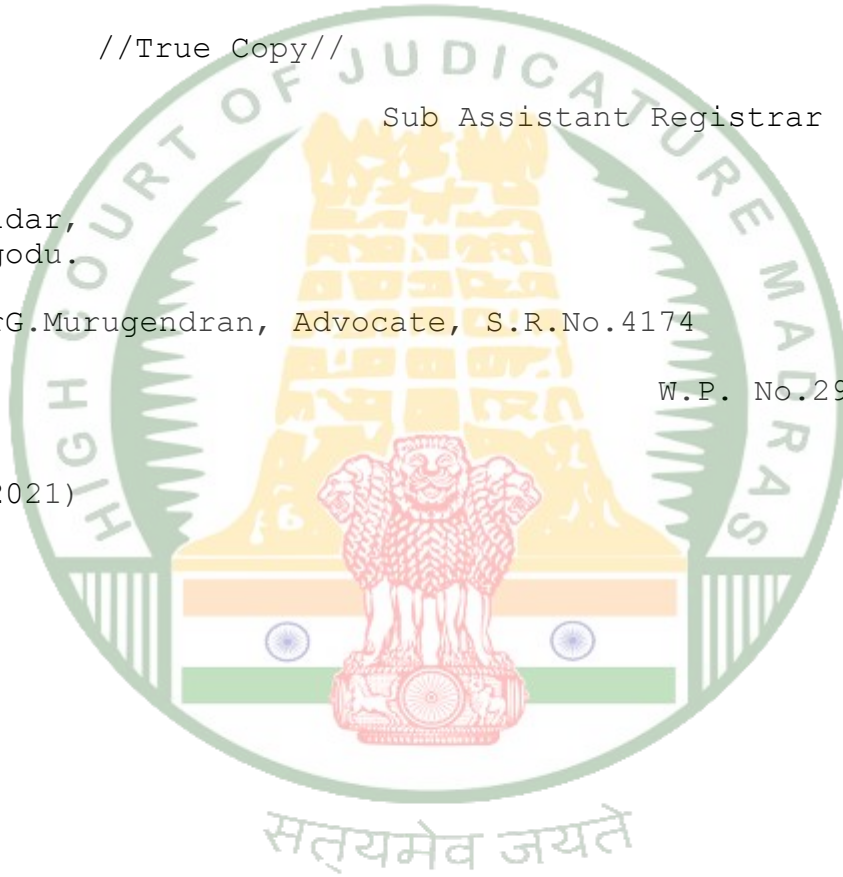
To

The Tahsildar,
Thiruchengodu.

+1cc to MrG.Murugendran, Advocate, S.R.No.4174

W.P. No.29604 of 2018

rsi (CO)
rv (16/02/2021)



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