



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.07.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.12568 of 2021

and

W.M.P (MD) No.9822 of 2021

WEB COPY

A.Shanthi

... Petitioner

Vs.

The Thasildar,
O/o. Madurai South Taluk,
Collectorate Buildings,
Madurai District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent under the proceedings Nil dated 04.06.2021 and quash the same as illegal and direct the respondent to issue legal heir certificate on the petitioner's online application hearing No.T.N.7202104202337 dated 20.04.2021 within a time frame as may be fixed by this Hon'ble Court.

For Petitioner	: Mr.Ponniah.M
For Respondent	: Mr.M.Lingadurai Government Advocate

ORDER

On consent given by either side, the main Writ Petition itself is taken up for final hearing.

2. The petitioner is challenging the refusal order passed by the respondent, dated 04.06.2021, wherein, the respondent has refused to issue Legal Heirship Certificate to the petitioner.

3. The case of the petitioner is that her husband Late Mr.K.Alagarsamy was initially married to one Tmt.Lakshmi and out of the said wedlock, four children were born. The first wife Lakshmi died on 10.03.1987. Thereafter, late Mr.K.Alagarsamy married the petitioner and out of the said wedlock, they had one son named Karthick.

4. It is stated that the husband of the petitioner died on 03.04.2021. Thereafter, the petitioner filed an application before the respondent on 20.04.2021 seeking for issuance of Legal Heirship Certificate. The application made by the petitioner was rejected by the respondent through the impugned order dated 04.06.2021 mainly on the ground that there are two wives for the deceased K.Alagarsamy



and the petitioner is the second wife and therefore, no Legal Heirship Certificate can be issued to the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court seeking for appropriate directions.

5. Heard Mr.M.Ponniah, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondent.

6. This Court has carefully gone through the materials filed along with this writ petition. It is seen that the children, who were born through the first wife by themselves have recognized the petitioner as the mother and they have given no objection to the petitioner to receive the service benefits of Late Mr.K.Alagarsamy. The specific case of the petitioner is that she was married to Mr.K.Alagarsamy only after the death of the first wife. Therefore, the marriage between the petitioner and Late Mr.K.Alagarsamy is valid in the eye of law. The respondent went wrong in construing the second marriage to be *per se* illegal. That only exposes the ignorance of the respondent about the relevant personal law.

7. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned order passed by the respondent dated 04.06.2021 and the same is hereby quashed. There shall be a direction to the respondent to issue Legal Heirship Certificate to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8. In the result, the Writ Petition stands allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Thasildar,
O/o. Madurai South Taluk,
Collectorate Buildings,
Madurai District.

+1 CC to M/s.M.PONNIAH, Advocate (SR-23951[F] dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-24400[F] dated 29/07/2021)

W.P.(MD).No.12568 of 2021
and W.M.P.(MD) No.9822 of 2021
Dated :27.07.2021

RK (05.08.2021) 3P 4C