



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.14411 of 2021

K.Sabarnisha

... Petitioner

Vs.

The Tahsildar
Aathur Taluk
Dindigul District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Na.Ka.No.2703/2021/Aa4 dated 16.07.2021 and quash the same as illegal and consequently direct the respondent to issue the legal heir certificate for petitioner's deceased husband namely K.Kani within the time fixed by this Court.

For Petitioner : Mr.B.Azhagesh

For Respondent : Mr.P.Subburaj

ORDER

The petitioner challenges an order dated 16.07.2021, whereby her request for issuance of a legal heirship certificate was rejected on the ground that the deceased individual, namely, K.Kani, had two wives. On such basis, the petitioner was directed to approach the jurisdictional civil court for necessary relief.

2. The petitioner states that her late husband, K.Kani, initially married one Pitchaiammal. It is also stated that her late husband had two children through Pitchaiammal, namely, K.Jailani and K.Sahira Banu. The said Pitchaiammal is said to have died on 08.02.1992. It is stated that the petitioner married the late K.Kani subsequent to the death of Pitchaiammal on 12.02.1993 and that the petitioner and the late K.Kani had one child, namely, K.Samrinbarkana.

3. The petitioner states that her late husband worked as a Head Mazdoor in the PWD department and that he attained superannuation on 28.02.2013. It is stated that the petitioner's name is shown in the service records of her late husband as his wife. Upon approaching



the first respondent herein, for a legal heirship certificate in respect of her late husband, the impugned order was issued by the respondent.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the sole respondent. He submits that the children of the petitioner's late husband through Pitchaiammal would also qualify as legal heirs and, therefore, they should be put on notice before the matter is decided.

5. The petitioner has enclosed the death certificate of Pitchaiammal which discloses that she died on 08.02.1992. As regards proof of her marriage to the late K.Kani, a marriage affidavit attested by a Notary Public is enclosed. The authorisation for pension from the office of the Principal Accountant General (A & E), Tamil Nadu, Chennai has also been enclosed and this document contains the petitioner's name of the person entitled to family pension.

6. In the light of the aforesaid documents, the impugned order dated 16.07.2021 rejecting the petitioner's application on the ground that the petitioner's late husband had two wives does not appear to be correct. Therefore, the said order is not sustainable. Consequently, the said order is quashed.

7. However, the respondent would have to examine the evidence with regard to the petitioner's marriage to the late K.Kani. More importantly, in view of the admitted position that the late K.Kani had two children through Pitchaiammal, the said persons would qualify as legal heirs and would certainly have to be put on notice during the fresh inquiry.

8. Accordingly, W.P.(MD).No.14411 of 2021 is allowed by quashing the order dated 16.07.2021 and remitting the matter to the respondent for a *de novo* inquiry. Such inquiry shall be conducted after putting K.Jailani and K.Sahira Banu, i.e., the children of the petitioner's late husband through Pitchaiammal on notice. Such *de novo* inquiry shall be concluded within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs.

Sd/-

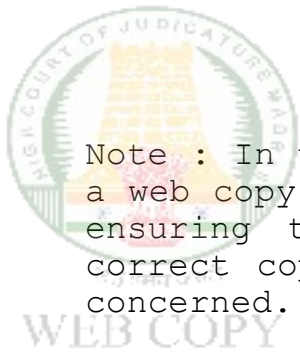
Assistant Registrar (AD-II)

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/ /2021

Sub Assistant Registrar(CS)

sbm



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

The Tahsildar
Aathur Taluk
Dindigul District.

+1 CC to M/s.GP (SR-26491[F] dated 17/08/2021)

+1 CC to M/s.B.AZHAGESH, Advocate (SR-26590[F] dated 17/08/2021)

W.P (MD) No.14411 of 2021
16.08.2021

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