



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.01.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.19593 of 2020
and
W.M.P. (MD)No.16311 of 2020

1.Vasantham Malliga
2.C.Arun Balaji : Petitioners

Vs.

1.The District Collector,
Madurai District, Madurai.
2.The Tahsildar,
Madurai North Taluk, Madurai. : Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorified Mandamus, to call for the records pertaining to the impugned rejection order passed by the respondents dated 09.06.2020 and on 04.09.2020 and to quash the same and consequently to direct the 2nd respondent to issue legal heir certificate based on the application vide application number TN-7202009041108 dated 04.09.2020 to the petitioners by adopting due process of law.

For Petitioners :Mr.C.M.Arumugam
For Respondents :Mr.M.Rajarajan,
Additional Government Pleader

ORDER

Heard the learned Counsel for the petitioners and the learned Additional Government Pleader appearing for the respondents.

2.The first petitioner got married to one Chandrasekaran on 20.08.1969 at Sattur. No child was born to them. Therefore, they approached the Congregation of the Sisters of the Cross of Chawand, Trichy and adopted the second petitioner. Thereafter, they approached the Principal District Court, Trichy, by way of filing G.W.O.P.No.68 of 1996 and obtained guardianship over the second petitioner herein. Chandrasekaran passed away on 27.05.2020.

3.Thereupon, the petitioners have approached the second respondent for issuance of legal heirship certificate by submitting an application through online. However, the second respondent, by



impugned communication, rejected the petitioners' request. Questioning the same, this Writ Petition came to be filed.

4.The learned Additional Government Pleader pointed out that no adoption document has been filing along with application and therefore, the petitioners' request was rightly rejected. He has also pointed out that in the order, dated 29.01.1997 made in G.W.O.P.No.68 of 1996, on the file of the Principal District Court, Trichy, no one was shown as respondent and no averment has been found in the order that the first petitioner and her husband had approached the orphanage. The ground pointed out by the learned Additional Government Pleader is correct. But, it is too technical. The second respondent has approached the issue in a technical manner. The second respondent ought to have seen that Ex-P3 annexed to the said G.W.O.P., order, talks about the handing over of the child with the said orphanage.

5.Before this Court, the letter, dated 26.03.1997 issued by the said Congregation has been enclosed. I have no doubt whatsoever that the second petitioner was handed over to the orphanage and the said orphanage had handed over the second petitioner to the first petitioner and her husband Chandrasekaran, for adoption and the first petitioner and her husband had approached the Principal District Court and obtained guardianship right over the second petitioner.

6.In fact, in the birth certificate of the second petitioner, Chandrasekaran was shown as his father. In view of the unimpeachable materials, the legal heirship certificate as sought for by the petitioners herein cannot be denied. I have no doubt in my mind that the second petitioner was the adopted child of Late Chandrasekaran. Therefore, the impugned order is quashed and the Writ Petition is allowed and the second respondent shall forthwith issue legal heirship certificate as sought for by the petitioners by showing both the petitioners, as the surviving legal heirs of the deceased Chandrasekaran.

7.Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Madurai North Taluk, Madurai.

+1 CC to GP (SR-1868[F] dated 22/01/2021

W.P. (MD) No.19593 of 2020

21.01.2021

(CO)

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