



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.18575 of 2021

Ayshabeevi

... Petitioner

Vs.

The Tahsildar,
Papanasam Taluk,
Thanjavur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to issue legal heirship certificate to the petitioner after conducting necessary enquiry in accordance with law for the online application No.TN-7202107031110 vide transaction reference No.TNCIT00003342677 submitted by the petitioner.

For Petitioner : Mr.M.L.Ganesh
For Respondent : Mr.K.S.Selva Ganesan
Counsel for State

ORDER

The petitioner seeks a direction for the issuance of a legal heirship certificate in relation to her husband, Mr.S.A.Jamal Mohamed, who died on 28.01.2021.

2.The petitioner states that she married the late S.A.Jamal Mohamed on 06.05.1999 and that the said marriage was duly registered in the Jamaat as evidenced by the marriage certificate issued by the Kazi Syed Tajudeen Sahib, Thanjavur. According to the petitioner, her late husband had previously married one Mrs.Hajira Banu. The said marriage was dissolved by way of a divorce in the year 2000. The petitioner asserts that she married the late S.A.Jamal Mohamed after the dissolution of the first marriage. It is also stated that the petitioner and S.A.Jamal Mohamed have two children.

3.Upon the demise of her husband, the petitioner applied for a legal heirship certificate. Pursuant to the said application, the Village Administrative Officer of Papanasam Village and Taluk conducted an inquiry and submitted a statement on 13.09.2021 to the Revenue Inspector, Papanasam Taluk to the effect that the petitioner should approach a civil court to obtain the legal heirship certificate. It is stated that the Revenue Inspector, Papanasam Taluk also issued a communication dated 13.09.2021 on the same lines.

4.The petitioner states that the revenue authorities should not drive the petitioner to a civil court. Instead, it is incumbent



upon them to conduct an inquiry and ascertain the legal heirs of the deceased. Earlier orders of this Court on this issue are also relied upon by the petitioner.

5.Mr.K.S.Selva Ganesan, learned Counsel for the State, accepts notice on behalf of the sole respondent. On instructions, he states that the late S.A.Jamal Mohamed also had children through his first marriage. Therefore, he states that the first wife and the children through the first wife should be provided a reasonable opportunity before a decision is taken on the petitioner's application.

6.The petitioner has enclosed a copy of the marriage register issued by the Kazi Syed Tajudeen Sahib, Thanjavur. The death certificate of the deceased and a legal heirship certificate issued by the Mohideen Andavar Mosque Committee are also enclosed. The on-line application status indicates that the petitioner's application was rejected on the sole ground that the deceased had two wives. The said decision cannot be construed as a reasoned decision inasmuch as the authority has not considered whether the first marriage was duly dissolved before the petitioner married the deceased S.A.Jamal Mohamed. Therefore, the said order cannot be sustained. Consequently, the respondent should reconsider the petitioner's application for a legal heirship certificate by conducting an inquiry so as to ascertain whether there was a valid divorce between Mrs.Hajira Banu and the late S.A.Jamal Mohamed as also to ascertain whether the late S.A.Jamal Mohamed and Hajira Banu had children.

7.For reasons set out above, the respondent is directed to consider the petitioner's application for grant of legal heirship certificate by conducting an inquiry. For purposes of such inquiry, the observations contained in this order should be taken into consideration. The petitioner is also permitted to submit any additional documents to the respondent within a period of two (2) weeks from the date of receipt of a copy of this order. Such inquiry shall be concluded by way of a reasoned order within a period of three (3) months from the date of receipt of additional documents from the petitioner after providing a reasonable opportunity to the petitioner, Mrs.Hajira Banu and the children, if any, of Mrs.Hajira Banu and S.A.Jamal Mohamed.

8.W.P.(MD)No.18575 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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,
Papanasam Taluk,
Thanjavur District.

+1 CC to M/s.SPL.GP (SR-32347[F] dated 25/10/2021)

W.P(MD) .No.18575 of 2021
21.10.2021

KS (CO)

RS/JC (01.11.2021) 3P 3C