



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.19154 of 2021

WEB COPY

A.Justin Mary

... Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District,

2.The Revenue Divisional Officer/Sub-Collector,
Padmanabhapuram,
Thucklay,
Kanyakumari District.

3.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

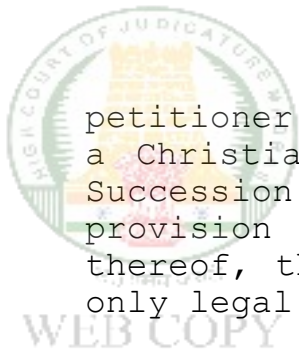
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned online application rejection status report dated nil of the third respondent and to quash the same and consequently direct the third respondent to issue Legal Heir Certificate to the petitioner's deceased husband C.V.Vijaya Rajan, S/o.Vedhakan by mentioning (1) Justin Mary - Wife, (2) Annie V Pepsi - Daughter and (3) Andrew V Benz - Son.

For Petitioner : Mr.M.R.Sreenivasan
For Respondents : Mr.K.S.Selva Ganesan
Counsel for State

ORDER

The petitioner challenges an online application rejection status report by which her application for a legal heirship certificate was rejected.

2. The petitioner states that the marriage between herself and her husband, C.V.Vijaya Rajan, was solemnized on 13.06.1994. An extract from the Marriage Register is relied upon in support of such submission. The petitioner states that her husband died on 16.05.2021 leaving behind herself, her daughter, and her son as his legal heirs. After obtaining the death certificate, the petitioner applied for the legal heirship certificate on 07.06.2021. Upon checking the online status report, the petitioner was shocked to find that the application was rejected on the ground that the name of the deceased husband's mother had not been included therein. The



petitioner assails the said order on the ground that her husband was a Christian and not a Hindu. Therefore, Section 8 of the Hindu Succession Act, 1956 is not applicable. Instead, the relevant provision is Section 33 of the Indian Succession Act. In terms thereof, the petitioner contends that the wife and children are the only legal heirs.

3. Mr.K.S.Selva Ganesan, learned counsel for the State, appears on behalf of all the respondents. He submits that the Tahsildar may be directed to reconsider the matter.

4. As pointed out by learned counsel for the petitioner, Section 8 of the Hindu Succession Act only applies to a Hindu male who dies intestate. Under such provision, the mother of such deceased Hindu male who dies intestate qualifies as a Class-I legal heir. On the contrary, under Section 33 of the Indian Succession Act, the widow and lineal descendants succeed to the estate of the deceased Christian male. In the case at hand, the petitioner has produced the community certificate of the deceased, which indicates that he is a Christian Nadar. The extract from the Marriage Register is also on record. The said document indicates that the marriage was solemnized in the Church of the Most Holy Trinity, which is part of the Diocese of Kulithurai. As such, there is no doubt that the petitioner and the deceased are Christians. Consequently, the impugned order is unsustainable and is hereby quashed.

5. As a corollary, W.P.(MD).No.19154 of 2021 is allowed by directing the third respondent to reconsider the petitioner's application for a legal heirship certificate. The said application shall be reconsidered by taking into account the observations contained in this order and disposed of either by issuing the legal heirship certificate or by issuing a reasoned communication indicating the reasons for refusal to do so. In either case, the entire process shall be concluded within a period of three (3) months from the date of receipt of a copy of this order. There will be no order as to costs.

Sd/-

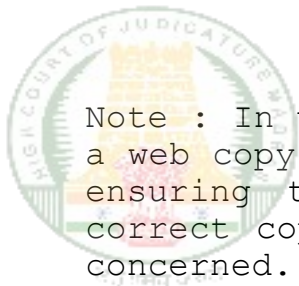
Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

tsg/nsr/LM



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.

WEB COPY

- To
- 1.The District Collector,
Nagercoil,
Kanyakumari District,
 - 2.The Revenue Divisional Officer/Sub-Collector,
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Thucklay,
Kanyakumari District.
 - 3.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-33547[F]
dated 02/11/2021)

+1 CC to M/s.SPL.GP (SR-33668[F] dated 08/11/2021)

W.P (MD) No.19154 of 2021
01.11.2021

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