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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.253 of 2022

C.Dhanalakshmi

... Petitioner

Vs.

1. The Tahsildar,
Sankari Taluk Office,
Salem District.

2. The Village Administration Officer,
Arasiramani Village,
Kullampatti Post,
Sankari Taluk,
Salem District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, call for the records relating to the rejection of her application vide application No.TN-7202111262216 dated 26.11.2021 by the first respondent in respect of refusal to issue legal heirship certificate of the petitioner's deceased husband Kandasamy who died on 09.11.2021 is against law and quash the same and consequently direct the respondents to issue legal heirship certificate in the name of the petitioner and her son K.Srinivasan name in respect of the death of the petitioner's husband Kandasamy, who died on 09.11.2021 at the petitioner's residence at No.2-3-4B, kannamuchan Kadu, Arasiramani Kullampatti Post, Sankari Taluk, Salem District.

For Petitioner : Mr.N.Vijaya Basker

For Respondents : Mrs.C.Sangamithirai
Spl. GP

ORDER

This writ petition has been filed to call for the records relating to the rejection of her application vide application No.TN-7202111262216 dated 26.11.2021 by the first respondent in respect of refusal to issue legal heirship certificate of the petitioner's deceased husband Kandasamy who died on 09.11.2021 is against law and quash the same and consequently direct the



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respondents to issue legal heirship certificate in the name of the petitioner and her son K.Srinivasan name in respect of the death of the petitioner's husband Kandasamy, who died on 09.11.2021 at the petitioner's residence at No.2-3-4B, kannamuchan Kadu, Arasiramani Kullampatti Post, Sankari Taluk, Salem District.

2. The facts of the case are as follows:

The petitioner got married to one Kandasamy during the year 1981 and out of the wedlock one male child was born during the year 1982. The petitioner husband worked as Health Inspector and got retirement from the health department and he died on 09.11.2021 due to ill health. After demise of her husband, the petitioner obtained death certificate of her husband on 25.11.2021. In order to obtain legal heir certificate, the petitioner applied legal heir certificate to the first respondent through online vide application No. No.TN-7202111262216 dated 26.11.2021 and the same was rejected by the officials. Challenging the said rejection order of the first respondent, the petitioner has filed the present writ petition before this Court seeking appropriate remedy.

3. The learned counsel for the petitioner submitted that the petitioner has been legally wedded one Kandasamy. In order to prove the same, the petitioner has produced the Adhar Card, Family Card and also pension certificate issued by the Government, in which, the deceased Kandasamy mentioned the name of the petitioner as nominee. Without considering the real facts, the first respondent has rejected the petitioner's application, which is highly unfair. Therefore, the learned counsel prays to allow the writ petition.

4. The learned Special Government Pleader, on instructions, submitted that on receipt of the petitioner's application, the respondents conducted field inspection, it reveals that the deceased Kandasamy already got married with another woman and they had one daughter. The first wife and her daughter, at present, were residing at Singapore. The learned counsel further submitted that the petitioner herself admitted that after getting divorce from the first wife, the said Kandasamy got married with the petitioner. Further the petitioner has not produced any document with regard to the divorce. Hence, the learned counsel prays to dismiss the writ petition.

5. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondents, and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner got married one Kandasamy and they had one son.



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After the death of one Kandasamy, the petitioner applied for legal heirship certificate. The said application was rejected by the officials on the ground that the petitioner is the second wife of the deceased Kandasamy. The deceased Kandasamy, earlier, got married with another woman and they had one daughter.

7. On field inspection conducted by the officials, as per the local public statement, at present, the first wife and her daughter were living in Singapore. Further, the petitioner has also not produced any proof with regard to the divorce from his wife. The petitioner has only produced Adhar card, family card and pension papers. The government servant can add anyone's name in the Service Register as nominee. That sole ground is not valid and the same is not enough to prove her marriage. Therefore, the first respondent has rightly rejected the petitioner's application.

8. Such being the case, there exists a dispute with regard to marriage between the petitioner and the deceased Kandasamy, this Court cannot interfere in the matter by exercising its jurisdiction under Article 226 of the Constitution as the Court cannot enter into disputed questions of fact. The petitioner has to approach the competent civil forum to solve the issue.

9. For the reasons aforesaid, this Court is not inclined to quash the impugned order and, accordingly, this writ petition fails and the same is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Thasildar,
Sankari Taluk Office,
Salem District.

2. The Village Administration Officer,
Arasiramani Village,
Kullampatti Post,
Sankari Taluk, Salem District.

+lcc to the Government Pleader, S.R.No.2994

W.P.No.253 of 2022

SVI (CO)
SB(02/03/2022)