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W.P.No.14077 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.14077 of 2015

Kokila

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Villupuram, Villupuram District.

2.The Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Chinna Salem, Villupuram District.

3.The Tahsildar,
Office of Tahsildar,
Chinna Salem, Villupuram District.

4.Ponnusamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 3rd respondent No.Na.Ka. A4/9655/2014 dated 17.10.2014 which rejected the application of the petitioner for Legal Heirs Certificate dated 25.2.2013 and consequently direct the 3rd respondent to issue Legal Heirs Certificate in the name of the petitioner on the basis of the documents filed by the petitioner.



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For Petitioner : Mr.V.Vijayarajan
for M/s.K.Varadha Kamaraj

For R1 to R3 : Mrs.N.Senthil Selvi
Government Advocate

For R4 : Mr.S.Nedunchezhiyan

ORDER

The writ petition is filed challenging the order passed by the 3rd respondent, dated 17.10.2014, refusing to issue Legal Heirship Certificate to the petitioner as a heir of Late Mr.S.Dhanapal, S/o.Sengan Padayachi, who died on 14.12.2012.

2.The said Mr.S.Dhanapal died while he was working as a Government servant. The petitioner, claiming to be the wife of Mr.S.Dhanapal on the basis of a marriage said to have been solemnized in the year 1987, applied for Legal Heirship Certificate. Meanwhile, the 4th respondent in the writ petition, who is the brother of deceased, filed a suit in O.S.No.75 of 2013 on the file of the District Munsif Court, Kallakurichi, for a declaration that he is the sole legal heir of the said Mr.S.Dhanapal and objected for issuance of Legal Heirship Certificate to the petitioner. It is also stated that the 4th respondent filed another suit in O.S.No.270 of 2013 before



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the District Munsif Court, Kallakurichi, to prevent the family pension being disbursed in favour of the petitioner. It is only on the basis of the objection raised by the 4th respondent, the 3rd respondent refused to issue Legal Heirship Certificate to the petitioner citing the pendency of the civil litigations on the same issue.

3.A counter affidavit is filed by the 4th respondent, denying the relationship between the petitioner and the deceased Mr.S.Dhanapal. The 4th respondent has contended that he is none other than the brother of the deceased Mr.S.Dhanapal. It is his case that the brother of the 4th respondent did not marry the petitioner and that she was working as a servant maid for doing some household works for his brother. It is also contended that the petitioner's name is Kolanjiyammal and it is alleged that the petitioner was earlier married to one Pandurangan and thereafter, she married one Arunachalam, who was employed as Sugarcane Inspector and that the marriage between the petitioner and Arunachalam was not terminated.

4.Though several other factual issues were raised by the 4th respondent, this Court is not inclined to go into the merits of the contentions of the respective parties for the simple reason that the suit filed by the 4th



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respondent in O.S.Nos.75 of 2013 and 270 of 2013 before the District
Munsif Court, Kallakurichi, are pending.

5.It is now reported that the petitioner is no more. However, it is stated that the petitioner has executed a Will. The issue relating to the actual legal heirship of the deceased Mr.S.Dhanapal can be decided by the civil Court, in the pending suits, where the entitlement of the petitioner or the 4th respondent to succeed to the Estate of the deceased, is the core issue. Therefore, giving liberty to the petitioner to establish her right as a legal heir before the civil Court, either in the pending proceedings or by filing a separate suit, this writ petition is dismissed. No costs.

26.10.2022

mkn

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

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2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
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3.The Tahsildar,
Office of Tahsildar,
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S.S. SUNDAR, J.

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