



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.27266 of 2009

&

M.P.No.1 of 2009

1.Mrs.N.Santhakumari

2.Mrs.N.Rajasulochana

Mr.J.Ponnaiyan @ Ramachandran

... Petitioners

vs.

1.The Tahsildar,
Coimbatore North,
Coimbatore-641 018

2.The Revenue Divisional Officer,
Coimbatore-18

3.The Assistant Commissioner,
Coimbatore Corporation,
North Zone, Coimbatore-37

4.Mrs.Malathi @ Mala

5.Mr.R.Mohandass

6.R.Rooban

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings no.Ne.Mu.21007/2007/Aa1 dated 12.12.2007, O.Mu.4455/2008/Aa1 dated 19.05.2008 and Mu.Mu.6258/2009/Aa1 dated 08.06.2009, quash the same and further direct the first respondent to issue a fresh legal heir certificate by considering the inclusion of the names of the petitioners in accordance with law.

For Petitioner : Mr.P.R.Krishna Raj

For Respondents: Mr.M.Rajendran, AGP for RR1 & 2

:Mr.M.Venkadeshnan for RR4 to 6



O R D E R

This writ petition has been filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings no.Ne.Mu.21007/2007/Aa1 dated 12.12.2007, O.Mu.4455/2008/Aa1 dated 19.05.2008 and Mu.Mu.6258/2009/Aa1 dated 08.06.2009, quash the same and further direct the first respondent to issue a fresh legal heir certificate by considering the inclusion of the names of the petitioners in accordance with law.

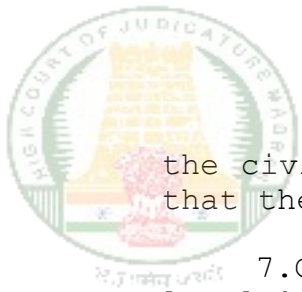
2.The petitioners are the elder sisters of one late.N.Jayachandran. After his demise, they applied for Legal heirship Certificate. They were informed that the Tahsildar has issued the Legalheirship Certificate dated 12.12.2007 in favour of the fourth respondent, who is the wife of Late.Jayachandran. According to the petitioners, they are professing Christian religion. Legal heirship and their entitlements are different from Hindu Succession Act. As per the Indian Succession Act, all the brothers and sisters are also to be treated as legal heirs and the denial of legal heirship certificate issued by the Tahsildar as per Hindu Succession Act to a Christian had seriously impaired their rights and benefits. Therefore, they approached the Tahsildar/the first respondent herein for cancellation of legal heirship certificate dated 12.12.2007. The Tahsildar, vide his proceedings in Mu.Mu.no.6258/2009/Aa1 dated 08.06.2009 has rejected the request of the petitioners for cancellation of legal heirship certificate against which, they preferred an appeal before the Revenue Divisional Officer.

3.It is also relevant to note that the petitioners have filed a suit in O.S.No.380 of 2008 on the file of the learned Subordinate Judge, Coimbatore.

4. The learned counsel for the fourth respondent would submit that the said suit was dismissed for default.

5. Per contra, the learned counsel for the petitioners would contend that they have filed an application for restoration of suit in A.No.277 of 2008.

6. Be that as it may. When there is a dispute, the Thasildar shall direct them to approach the Civil Court, which is competent to decide the rights of parties. On the other hand, the Tahsildar himself has decided the legal heirship without considering the relevant statutes and issued the legalheirship certificate on 12.12.2007. Such a course is not acceptable and the Thasildar is not empowered to decide legal heirship, when there is a dispute. It is however, noted that



the civil litigation has been initiated and therefore, it is apt that the Civil Court decide the legal issue.

7. Considering the facts and circumstances of the case, the legal heirship certificate issued by the first respondent dated 12.12.2007 is set aside and a further direction is issued to the first respondent/Tahsidar to issue a legal heirship certificate as per the decree and judgment being passed by the competent Civil Court in O.S.No.277 of 2008, pending on the file of the learned Subordinate Judge, Coimbatore.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dn
To

1.The Subordinate Judge,
Coimbatore.

2.The Tahsildar,
Coimbatore North,
Coimbatore-641 018

3.The Revenue Divisional Officer,
Coimbatore-18

4.The Assistant Commissioner,
Coimbatore Corporation,
North Zone, Coimbatore-37

+3 ccs to Mr.M.Venkadesh, Advocate Sr.NO.23510,22916
+1 cc to Mr.P.R.Krishna Raj, Advocate Sr.NO. 23251
+1 cc to Government Pleader Sr.NO. 23397

W.P.No.27266 of 2009

mt (CO)
A.SK(26/04/2022)