



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.14820 of 2022

and

W.M.P.No.14017 of 2022

Jannath Beevi

..Petitioner

-Vs-

1. The Tahsildar,
Purasawalkam Taluk,
Office of the Tahsildar of Purasawalkam,
Periamet,
Chennai - 600 003.

2. M.Abdul Rasheed

3. S.Sajitha Banu

4. S.Kasif Ahamed

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for and examine the records of the 1st respondent herein relating to the proceedings in application No.TN-720220519996 resulting in his order dated 22.05.2022 and to quash the same and consequently direct the 1st respondent to issue a fresh legal heirship certificate entering therein the name of the petitioner and the names of the respondents 2 to 4 herein as the legal heris of the deceased Mr.A.Syed Ibrahim.

For Petitioner : Mr.Mohammed Shafi

For Respondent : Mr.K.H.Ravikumar,
Government Advocate for r1

O R D E R

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the order dated 22.05.2022 rejecting the petitioner's application seeking



to include her father-in-law, Mr.M.Abdul Rasheed as one of the legal heirs in the legal heirship certificate for her deceased husband A.Syed Ibrahim, who died intestate on 30.03.2018. According to the petitioner, her husband A.Syed Ibrahim, died intestate on 30.03.2018 leaving behind the following legal heirs as per the Islamic Law of Inheritance

- (a) Mr.M.Abdul Rasheed (father)
- (b) Mrs.Jannath Beevi (petitioner's wife)
- (c) Mrs.S.Sajitha Banu (daughter)
- (d) Mr.S.Kasif Ahamed (son)

3. Earlier, on an application submitted by the petitioner seeking for legal heirship certificate for her deceased husband Mr.A.Syed Ibrahim, the legal heirship certificate came to be issued on 13.07.2018 bearing Certificate No.720180621613. In the said legal heirship certificate, the name of the petitioner's father-in-law (Mr.M.Abdul Rasheed), who is the father of the deceased was left out erroneously. Only in such circumstance, a fresh application was submitted by the petitioner seeking for issuance of legal heirship certificate to include the name of her father-in-law also as one of the legal heirs of her deceased husband Mr.A.Syed Ibrahim. The father is the legal heir of the deceased, who is his son, under the Muslim Law of Inheritance. However, according to the petitioner, by total non-application of mind to the Islamic Law of Inheritance, an application to include the petitioner's father-in-law as one of the legal heirs of the deceased Mr.A.Syed Ibrahim, has been rejected by stating the following reasons.

"Applicant requested to cancel the application as there was errors in application hence not recommended, based on Firka Revenue Inspector and HQDT recommendation field verification, enquiry and documents such as ration smart card, adhar card of all the legal heirs mentioned while applying for legal heir certificate and death certificate of the deceased."

4. According to the petitioner, only in accordance with Islamic Law of Inheritance, the list of legal heirs for the deceased were mentioned in the application and there are no errors in the said application.

5. However, as seen from the impugned order, the application submitted by the petitioner to include the name of her father-in-law as one of the legal heirs of the deceased has been rejected on the ground that there were errors in the application submitted by the petitioner. As observed earlier, father of the deceased under the Islamic Law of Inheritance is also a legal heir. By total non-application of mind to the Islamic Law of Inheritance which is applicable to the



petitioner, the impugned order rejecting the petitioner's application has been passed. No opportunity of hearing has also been granted to the petitioner in the impugned proceedings. Being a non-speaking order with regard to the contentions raised by the petitioner in this writ petition and being an order passed in violation of principles of natural justice, the impugned order has to be necessarily quashed and the matter has to be remanded back to the respondent for fresh consideration on merits and in accordance with law in the light of the observation recorded by this Court in the earlier paragraph with regard to the right of father to be declared as the legal heir for his deceased son who is a muslim.

6. For the forgoing reasons, the impugned order dated 22.05.2022 passed by the 1st respondent is hereby quashed and the matter is remanded back to the 1st respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and other legal heirs of the deceased, including granting them the right of personal hearing and also by considering the fact that under the Islamic Law of Inheritance, the father is also a legal heir of his deceased son. The first respondent shall pass final orders within a period of three months from the date of receipt of a copy of this order.

7. With the aforesaid directions, the Writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Tahsildar,
Purasawalkam Taluk,
Office of the Tahsildar of Purasawalkam,
Periamet,
Chennai - 600 003.

+1cc to Mr.M.Mohammed Shafi, Advocate, S.R.No.35248
+1cc to the Government Pleader, S.R.No.36445

W.P.No.14820 of 2022

PMK(CO)
SB(23/06/2022)