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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16352 of 2021
and W.M.P.No.17324 and 17325 of 2021

Smt.P.Gomathi

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Kancheepuram District,
Kancheepuram.
2. The Revenue Divisional Officer,
Alandur, Kancheepuram District.
3. The Thasildhar,
Alandur Taluk,
Kancheepuram District.
4. The Village Administrative Officer,
Alandur, Kancheepuram District.

5.Smt.Mercy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records with regard order 3rd respondent dated 24.02.2021 in Na. Ka. 1254 / 2020 / A2 quash the same as illegal and further direct the 3rd respondent to give a legal heir certificate of petitioners deceased husband namely Mr. Late. Palani as per the particulars mentioned in her application for legal heir certificate.

For Petitioner : Mr.A.Gouthaman
For RR1 to 4 : Mr.K.Karthikeyan
Government Advocate
For RR5 : No appearance

O R D E R

The petitioner has filed this Writ Petition seeking issuance of writ of Certiorarified Mandamus to call for the entire records with regard order 3rd respondent dated 24.02.2021 in



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Na. Ka. 1254 / 2020 / A2 quash the same as illegal and further direct the 3rd respondent to give a legal heir certificate of petitioners deceased husband namely Mr. Late. Palani as per the particulars mentioned in her application for legal heir certificate.

2. The case of the petitioner is that the petitioner is the legally wedded wife of deceased husband namely, Late Palani and their marriage was solemnized on 7.09.2003 and out of wedlock, a daughter namely Dharshika was born on 12.03.2012. Later the petitioner's husband was passed away on 03.09.2021, due to COVID-19, leaving the petitioner and her daughter as his legal heirs to succeed the estate left by him. In order to change the records with regard to property left by her husband and to effect name transfer in all Government records, the petitioner has applied for legal heir certificate. However to her shock and surprise, the 3rd respondent has rejected her application, stating that one Mercy made objection on 03.09.2020 as if she was the wife of the deceased Palani and that when she was called for an enquiry, she did not present for enquiry and hence, the 3rd respondent rejected the petitioner's application and directed the petitioner to approach the competent Civil Court for legal heir certificate. Challenging the said rejection order, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that as of now, the 5th respondent has not come forward to produce any documents with regard to her right and the petitioner is the 1st wife of the said Palani. Further the non appearance of the 5th respondent for enquiry cannot be taken as a ground for rejecting the request of the petitioner for legal heir certificate and therefore, the impugned order is liable to be quashed and prays for allowing of this petition.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner's application will be reconsidered in the manner known to law and if the petitioner establishes her marital status that she was the wife of the deceased Palani, appropriate order for issuance of legal heir certificate will be passed and hence this Court may remit the matter back to the 3rd respondent.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. Even on bare perusal of the impugned order, it reveals that the Village Administrative Officer certified that the petitioner is the first wife of the deceased Pazhani and further the petitioner has denied the identity of the 5th respondent and it also appears that the 5th respondent not appeared for enquiry



before the 3rd respondent and prove his identity. In such circumstances, rejecting the petitioner's application is not sustainable and therefore, the impugned order is liable to be set aside.

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7. In view of the above, the Writ Petition is allowed and the impugned order of the 3rd respondent dated 24.02.2021 in Na. Ka. 1254 / 2020 / A2, is set aside and the matter is remanded to the 3rd respondent for fresh consideration and the 3rd respondent is directed to re-consider the application filed by the petitioner dated 06.10.2021 afresh, after affording opportunity of hearing to the petitioner as well as the 5th respondent and further the 5th respondent shall also put on early notice and if the 5th respondent fails to appear before the 3rd respondent, the 3rd respondent shall pass appropriate orders based on the available materials and furthermore, if the petitioner establishes her marital status by way of relevant documents, the 3rd respondent, if satisfied, shall issue legal heir certificate in favour of the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate, Kancheepuram District,
Kancheepuram.
2. The Revenue Divisional Officer,
Alandur, Kancheepuram District.
3. The Thasildhar,
Alandur Taluk, Kancheepuram District.
4. The Village Administrative Officer,
Alandur, Kancheepuram District.

+2ccs to Mr.A.Gouthaman, Advocate, S.R.No.7265
+1cc to the Government Pleader, S.R.No.7402

W.P.No.16352 of 2021

SS(CO)
CT 06/04/2022