



W.P.No.26544 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26544 of 2022
and
W.M.P.No.25599 of 2022

1.Latha

2.Keerthana.B

..Petitioners

Vs.

1.The Thasildhar,
Taluk Office, Taluk Office Road,
Kotagiri, The Nilgiris,
Tamil Nadu – 643 217.

2.The Revenue Divisional Officer,
R.D.O Office, Coonoor,
The Nilgiris, Tamil Nadu – 643 217.

3.Rose Mary

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for records in order No.647/2021 dated 27.12.2021 on the file of the 2nd respondent,



W.P.No.26544 of 2022

directing the 1st respondent to issue legal heir certificate including the name of the 3rd respondent and to quash the same and consequently cancel the legal heir certificate dated 14.03.2022 issued by the 1st respondent as a consequence of the order of the 2nd respondent.

For Petitioner : Mr.Dinuprashanth.S

For Respondents : Dr.T.Seenivasan,

Special Government Pleader for R1 and R2

Mr.K.Sathishkumar for R3

ORDER

Heard Mr.S.Dinuprashanth, learned counsel appearing for the petitioners, Dr.T.Seenivasan, learned Special Government Pleader for the respondents 1 and 2 and Mr.K.Sathish Kumar, learned counsel appearing for the 3rd respondent.

2. Aggrieved by the proceedings of the Sub-Collector, Coonoor dated 27.12.2021 the petitioner is before this Court.

3. The petitioner who is an Indian - Christian lost her husband in a road accident on 30.06.2019. She had one daughter apart from herself as a



W.P.No.26544 of 2022

surviving legal heir, as per the provisions of Section 33 of the Indian Succession Act. Therefore, the petitioners applied to the Revenue Authorities for grant of legal heirship certificate. The Authorities granted the certificate showing the petitioners as the legal heirs on 03.08.2019.

4. However, the mother of the husband of the 1st petitioner Mrs. Rose Mary applied to the Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeking a share in the property. During her deposition before that Authority she had stated that the petitioner has obtained the legal heirship certificate by suppressing her name. Therefore, based on such representation, the Sub-Collector had cancelled the legal heirship certificate issued to the petitioner dated 03.08.2019 and issued certificate including the mother as a legal heir.

5. This action of the 2nd respondent cannot be sustained, in view of the provisions of Indian Succession Act. Section 33 of the Indian Succession Act enumerates the legal representatives. When the deceased person leaves behind the widow and lineal descendants, the widow and lineal descendants



W.P.No.26544 of 2022

will alone become the legal heirs of the deceased under the Scheme of the Indian Succession Act. Therefore, the legal heirship certificate can be issued only to those persons who are recognized as legal heirs under the personal law applicable to a person. Neither the Government Order issued under G.O.Ms.No.478 dated 29.09.2022 nor the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can alter the legal heirs prescribed by the Indian Succession Act. If the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 confers certain benefits on the mother of the individual, as against the daughter-in-law, it is well open to the mother to claim such benefits under the enactment. The legal heirship certificate issued cannot be cancelled and the mother cannot be included in such legal heirship certificate.

6. Mr.K.Sathish Kumar, learned counsel appearing for the 3rd respondent would however contend that under Section 43 of the Indian Succession Act, the mother would be a legal heir, this overlooks the position that Section 43 relates to Rules of distribution where the deceased has left no lineal descendants. Once there is lineal descendants, the provisions of



W.P.No.26544 of 2022

Sections 41, 42 and 44 will not apply.

WEB COPY

7. Therefore, I am unable to sustain the order of the Revenue Divisional Officer dated 27.12.2021 and the same is accordingly set aside. As a consequence, the new legal heirship certificate dated 14.03.2022 is cancelled. The Authorities are directed to re-issue old legal heirship certificate dated 03.08.2019 which is held to be valid. No costs. Consequently, the connected miscellaneous petition is closed.

05.12.2022

dsa

Index : No

Internet : Yes

Speaking order

To

1. The Thasildhar,
Taluk Office, Taluk Office Road,
Kotagiri, The Nilgiris,
Tamil Nadu – 643 217.
2. The Revenue Divisional Officer,
R.D.O Office, Coonoor,
The Nilgiris, Tamil Nadu – 643 217.

5/6



WEB COPY



W.P.No.26544 of 2022

R.SUBRAMANIAN, J.

dsa

W.P.No.26544 of 2022

05.12.2022