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WP.No.24253 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WP.No.24253 of 2017
and WMP.No.37288 of 2017

R.Jayakumar

...petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Nilgris District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Ooty,
The Nilgris District.
3. The Tahsildar,
Office of the Tahsildar,
Ooty,
The Nilgris District.

...respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the second respondent herein to dispose the representation dated 09.09.2016 within a time frame fixed by this Court.



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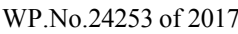
For Petitioner : Mr.S.Kingston Jerold
For Respondents : Mrs.M.Geetha Thamarai Selvan,
Special Government Pleader

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the second respondent to dispose of the representation of the petitioner dated 09.09.2016 within a time frame.

2. The petitioner earlier made a representation dated 25.11.2015 to the Revenue Divisional Officer/second respondent to direct the Tahsildar/third respondent to issue a legal heirship certificate to him to the effect that he is the husband and only legal heir of the deceased P.Jayanthi, who died on 27.04.2015, while she was working as a Nurse in a Primary Health Centre.

3. The said request of the petitioner was rejected by the Tahsildar on the ground that a legal heirship certificate was already issued to the original legal heirs of the deceased P.Jayanthi and the petitioner cannot seek another independent certificate. It was also communicated to the petitioner that if he wants to include his name in the



4. In response to the said communication received from the Tahsildar, the petitioner submitted a representation to the Tahsildar, in which, the petitioner reiterated that he is the husband of the deceased P.Jayanthi and no legal heirship certificate was issued to anyone earlier. He further requested the Tahsildar to pass an order cancelling the legal heirship certificate, which was said to have been issued earlier and to give a certificate in favour of the petitioner indicating that he is the only legal heir of the deceased.

5. It is surprising to note that the petitioner has not submitted any document except a photograph of the petitioner with a lady, who is identified by the petitioner as the deceased P.Jayanthi.

6. A detailed counter affidavit has been filed by the third respondent/Tahsildar and the relevant paragraph of the said counter is



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extracted hereunder:

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"5. It is respectfully submitted that the allegations made in para 3 of the affidavit are not factually correct. After performing the last rites of P.Jayanthi, her daughter, S.Subashree has submitted an application dated 15.05.2015 to the third respondent for Legal Heir Certificate by stating that she (S.Subashree) and her sister S.Dhanushya Shree are the only legal heirs of P.Jayanthi. With the application, the Death Certificate of P.Jayanthi, Birth Certificates of Subashree and Dhanushya Shree and Family Card of M.Shanmugam were enclosed. In the Family Card bearing No.12/G/0005658 the names of M.Shanmugam, P.Jayanthi, S.Subashree and S.Dhanushya Shree are shown as Family Members and residential address is shown as 31, Mel Pallivasal Street, Kandal Bazaar, Ooty, The Nilgiris. In the Death Certificate bearing Registration No.62/2015/03, dated 09.05.2015, the parents of deceased were shown as Parvathi and Peter and her permanent address was shown as Kandal, Ooty. The legitimate husband of P.Jayanthi is one M.Shanmugam, son of M.Mahakaliappan, residing now at 27, Karukampalayam Petham palayam Panchayat, Erode District. He has furnished a sworn affidavit dated 27.05.2015 by stating that he is husband of P.Jayanthi and biological father of Subashree and Dhanushya shree and



that due to difference of opinion, he has been living separately from his wife and children. The Revenue Officials have obtained statements from the local residents and Villagers as well as the relatives of the deceased P.Jayanthi including the Chairperson of Udhagamandalam Municipal Council and made independent enquiry and submitted their Report to the third respondent by substantiating that Subahsree and Danushya shree are the only legal heirs of P.Jayanthi. The Death Certificate dated 09.05.2015 issued by Udhagamandalam Municipality does not carry the name of the petitioner as the husband of P.Jayanthi. Therefore, the third respondent has issued Legal Heir Certificate dated 08.06.2015 by showing (1) Miss Subashree and (2) Miss Dhanushya shree are the only legal heirs of P.Jayanthi. The marriage between M.Shanmugam and P.Jayanthi has not been dissolved through any Court of Law till the death of P.Jayanthi. Therefore, Shanmugam continued to be the husband of the deceased P.Jayanthi till her death. His name ought to have been included as one of the legal heirs of P.Jayanthi. However, the third respondent has misconstrued the provisions of the Hindu Succession Act and failed to include the name of M.Shanmugam in the said Legal Heir Certificate. Therefore, the person aggrieved against issuance of the said Legal Heir Certificate is only



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M.Shanmugam and nor the petitioner, who is an utter stranger to the family deceased Government Servant."

7. From the counter affidavit, it is seen that the Tahsildar has found that the petitioner is not the legally wedded husband of the deceased P.Jayanthi. Her original husband by name M.Shanmugam is still alive and the deceased also left 2 other female children to succeed to her estate. Further, the legal heirship certificate issued in the name of the children of the deceased P.Jayanthi was cited as the reason for rejecting the claim of the petitioner and he was also requested to submit relevant documents to prove otherwise. However, the petitioner being unable to prove his legal status by any document has come forward with this Writ Petition by producing a photograph of himself along with the deceased.

8. From the facts narrated by the third respondent in the counter affidavit, it is seen that the petitioner's claim is based on no document and his fraudulent intention is evident from the contents of the affidavit. The petitioner cannot plead ignorance before this Court as he was earlier informed by the third respondent about the issuance of legal



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heirship certificate to the children of the deceased.

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9. In the above circumstances, having regard to the conduct and the attitude of the petitioner, this Writ Petition is dismissed with the cost of Rs.10,000/- (Rupees Ten Thousand only) payable by the petitioner to the Tamil Nadu Legal Services Authority, High Court Buildings, Chennai. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
pvs

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