



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2022

CORAM:

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.5285 of 2011

Mrs.Seethalakshmi

...Petitioner

Vs.

1.The Tahsildar,
Kovilpatti,
Tuticorin District.

2.Mrs.Petchiammal

...Respondents

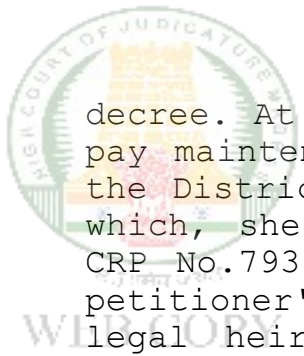
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records relating with the order passed by the first respondent in Mu.Mu.A1/1100/11, dated 20.01.2011 and quash the same and in consequence direct the first respondent to issue legal heir certificate of deceased Murugan, son of Koodurasamy Thevar of Illuppaiyurani Village, Kovilpatti Taluk, Tuticorin District.

For Petitioner	:Mr.B.Rajesh Saravanan
For R1	:Mr.S.P.Karthick
	Government Advocate
For R2	:Vakalat returned.

O R D E R

This writ petition is filed as against the order passed by the first respondent in Mu.Mu.A1/1100/11, dated 20.01.2011 rejecting the request of the petitioner, for issuance of legal heir certificate.

2.The case of the petitioner is that she is the wife of one Murugan, S/o Koodurasamy Thevar, who was working in the Police Department and they had no children. Due to some difference of opinion, they separated and the said Murugan married the second respondent and they got three children. Since the petitioner is not having any independent income, she filed O.S.No.1 of 2004, before the District Munsif Court, Kovilpatti for maintenance and the suit was decreed in favour of the petitioner, directing the said Murugan to pay monthly maintenance of Rs.1250/- to the petitioner. No appeal has been preferred by the petitioner's husband as against the



decree. At later point of time, the petitioner's husband evaded to pay maintenance amount. Hence, she filed execution petition before the District Munsif Court, Kovilpatti, which was dismissed, against which, she preferred Civil Revision Petition before this Court in CRP No.793 of 2009 and the same is pending. In the meantime, the petitioner's husband died on 27.09.2010. Hence, she applied for legal heir certificate and by the order impugned in this writ petition, the first respondent has rejected the request of the petitioner for the legal heirship stating that there are another person also claiming to be the wife of the deceased Murugan and therefore, the petitioner has to obtain the legal heir certificate only through the competent civil Court. Aggrieved over the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner made his submission that even during the life time of the deceased Murugan, the petitioner filed a maintenance suit before the District Munsif Court in O.S.No.1 of 2004, wherein, the Court has passed an order directing the deceased Murugan to pay the maintenance to the petitioner and therefore based on the orders of the civil Court, the learned counsel for the petitioner has taken a stand that it has already been declared by the competent Court that this petitioner is a legally wedded wife of the deceased Murugan and therefore, the impugned order has to be set aside and remand back to the first respondent for issuing legal heirship certificate. He has also produced an agreement entered between the petitioner and the second respondent on 26.04.2016. According to this compromise deed, the parties have arrived at a compromise to share the retirement benefits of the deceased Murugan in certain proportion.

4.Admittedly, the second respondent is the second wife of the deceased Murugan. There is no representation for the second respondent today. The learned counsel who appeared for the second respondent has also filed a memo before this Court stating that he has returned the papers. It appears that the second respondent is having four children. It is to be noted that the writ petition is kept pending for the past 10 long years. During 2014, when the matter was taken up for hearing, at the request of the learned counsel for the petitioner, the matter was referred to Mediation Centre. It appears that both the parties failed to appear before the Mediation Centre.

5. Though the learned counsel relied upon the compromise deed entered between the petitioner and the second respondent, the second respondent, who is a party to this deed, is not before this Court and therefore, this Court is not inclined to pass any orders based on the compromise deed. However, considering the fact that there is some agreement between the parties, this Court dispose of this writ petition with a direction to the petitioner to file a suit before the competent Court adding the second respondent as a party to the suit and also by referring this compromise deed. The



petitioner is at liberty to get appropriate decree for legal heirship certificate before the competent civil Court. On filing such suit, the competent civil Court is directed to dispose of the suit as expeditiously as possible, preferably, within a period of three months from the date of filing of the suit.

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6. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

To

The Tahsildar,
Kovilpatti,
Tuticorin District.

+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-15264[F] dated 30/03/2022)

+1 CC to M/s.SPL GP (SR-15337[F] dated 30/03/2022)

W.P(MD)No.5285 of 2011

29.03.2022

MGJ(21.04.2022) 3P 4C