



W.P(MD)No.13047 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13047 of 2013

and

M.P(MD)No.1 of 2013

P.Ramachandran

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

2.The Tahsildar,
Srivilliputtur, Virudhunagar District.

3.Paulchamy

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the first respondent in his proceedings Na.Ka.No. A3/427/2013, dated 13/06/2013 and quash the same.

For Petitioners : Mr.PT.S.Narendra Vasan

For R1 & R2 : Mr.A.Baskaran
Additional Government Pleader



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For R3

: Mr.R.Murugappan

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which he has cancelled the legal heir certificate issued by the second respondent herein.

2. According to the learned counsel for the petitioner, the properties belonged to one Poongavana Thevar, who died intestate leaving behind two sons, namely Ramachandran, Punniya Moorthy and a daughter by name, Tamilselvi. The said Punniya Moorthy had passed away leaving behind his wife Karuppayee Ammal. Hence, Karuppayee Ammal got 1/3rd share in the property. However, the parties have not partitioned their shares among themselves. After the death of Karuppayee Ammal, the other brother of Punniya Moorthy, namely Ramachandran and sister Tamilselvi have applied for legal heirship certificate and a legal heirship certificate was issued by the second respondent herein on 02.05.2007. The third respondent herein is the brother of the deceased Karuppayee Ammal. According to the third



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respondent, a Will was executed by the said Karuppayee Ammal in his favour on 24.11.2008 in Document No.135 of 2008. However, due to pressure from the petitioner and others, the said Will has been illegally cancelled by the said Karuppayee Ammal on 16.04.2009. Hence, he has approached the first respondent herein for cancellation of the legal heirship certificate issued to the writ petitioner and his sister Tamilselvi. According to the third respondent, based upon the Will, dated 24.11.2008, he is the sole legal heir of deceased Karuppayee Ammal.

3. However, the learned counsel for the petitioner submits that the said Will was cancelled by way of a registered document on 16.04.2009 and hence, the third respondent will not have any claim over the property of the said Karuppayee Ammal.

4. I have carefully considered the submissions made on either side.

5. From averments, it could be seen that Karuppayee Ammal had died intestate after inheriting a property through her husband Punniya Moorthy. In view of Section 15 (2) (b) of the Hindu Succession Act, the petitioner, namely Ramachandran and her sister Tamilselvi will be the



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class 2 heirs. Hence, the second respondent was right in issuing the legal heirship certificate. However, the said legal heirship certificate has been cancelled by the first respondent herein, citing the objection raised by the third respondent herein. In view of the legal provisions, the order impugned in the writ petition is not sustainable and the same is set aside. However, the third respondent is at liberty to approach the competent Civil Court relying upon the alleged Will, dated 24.11.2008 to establish his right over the property in dispute.

6. With the above said observations, this Writ Petition is allowed.
No costs. Consequently, connected Miscellaneous Petition is closed.

22.09.2022

Index : Yes / No
Internet : Yes / No

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Sivakasi,
Virudhunagar District.
- 2.The Tahsildar,
Srivilliputtur,
Virudhunagar District.



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R.VIJAYAKUMAR ,J.

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Order made in
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