



W.P(MD)No.9320 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.9320 of 2013

and

M.P(MD)No.1 of 2013

M.Inshan Beevi

... Petitioner

Vs.

1.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

2.Abdulkamal Nasar

... 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 impugned order vide Pa.Mu.A4-10205-2013, dated 31.05.2013 passed by the first respondent and quash the same.

For Petitioner : No appearance

For R-1 : M/s.A.Baskaran
Additional Government Pleader

For R-2 : M/s.Sulthan Basha
for M/s.Ajmal Associates



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ORDER

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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 already issued by him.

2. According to the petitioner, the petitioner and one Jameela Beevi are the daughters of one Mohammed, who had passed away on 25.04.1974. They had approached the first respondent herein for issuance of legal heir certificate. Accordingly, the legal heir certificate was issued in the name of the writ petitioner and her sister Jameela Beevi on 09.01.2013. However, on the objection raised by the second respondent herein, the said legal heir certificate was cancelled by the first respondent herein, without issuing any notice to the writ petitioner. This order is under challenge in the present writ petition.

3. According to the petitioner, the legal heir certificate originally issued has been cancelled under the impugned order, without issuing any notice to her or conducting any enquiry. Hence, he prayed for allowing the writ petition.



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4. Per contra, the learned Counsel appearing for the second respondent had contended that the said Mohammed had not died on 25.04.1974 and the death certificate that has been projected by the writ petitioner is a fake one. In view of the said allegations, an FIR has already been lodged by the Commissioner of Paramakudi Municipality before the District Crime Branch, Ramanathapuram and the same is pending in Crime No.31 of 2013. Hence, according to the learned Counsel for the second respondent, the death certificate of Mohammed itself is fake and hence, the legal heir certificate issued by the first respondent, based upon the said death certificate should only be cancelled. The learned Counsel for the second respondent had further contended that the writ petitioner and her sister Jameela Beevi are not daughters of Mohammed and they are daughters of one Masthan Kani. Hence, according to the petitioner, they are not entitled to get a legal heir certificate at the hands of the first respondent herein.

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



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6. The first respondent herein has issued a legal heir certificate in favour of the writ petitioner and her sister Jameela Beevi on 09.01.2013, on the ground that they are the daughters of one Mohammed, who had died on 25.04.1974. The date of death of Mohammed and the legal heirship of the writ petitioner and Jameel Beevi are strongly disputed by the second respondent herein. However, the order impugned in the writ petition has been passed, cancelling the legal heir certificate, without issuing any notice to her or conducting any enquiry.

7. In view of the above said facts, the order impugned in the writ petition is set aside. The petitioner is directed to apply afresh, in view of the online procedure introduced in the office of the first respondent herein. On receipt of such online application, the first respondent herein is directed to give due opportunity to the writ petitioner and the second respondent herein and thereafter, pass orders within a period of twelve (12) weeks from the date of receipt of such application.



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8. The writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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Index : Yes / No
Internet : Yes / No
btr

To

The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.9320 of 2013

18.10.2022