



W.P.(MD)No.1207 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1207 of 2021

and

W.M.P(MD)No.1046 of 2022

Indirani

... Petitioner

Vs

The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the online rejection order passed by the respondent in his proceedings Nil dated 18.11.2021 and quash the same as illegal, consequently directing the respondent to issue legal heir certificate on the basis of the petitioner's online application No.TN720211111665, dated 11.11.2021.

For Petitioner
For Respondent

: Mr.T.Lenin Kumar
: Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the online rejection order



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passed by the respondent in his proceedings Nil dated 18.11.2021 and quash the same as illegal, consequently directing the respondent to issue legal heir certificate on the basis of the petitioner's online application No.TN7202111111665, dated 11.11.2021.

2.Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner and Mrs.K.Christy Theboral, learned Additional Government Pleader appearing for the respondent.

3. The learned counsel appearing for the petitioner would submit that the petitioner is residing in the above said address along with her children. On 29.08.1974, she got married with one Pandiarajan, S/o. Velusamy in accordance with Hindu rites and customs. Out of wedlock, she gave birth to a female child and she was named as Mariammal and 2 male children one after another and they were named as Arumugasamy and Ganesan. When she was leading the matrimonial life happily, her husband Pandiarajan breathed his last on 01.01.1983, leaving behind herself and her children as his legal heirs. Seeking for legal heir certificate, she has given a petition before the respondent and the respondent after considering her application, issued legal heir certificate on 08.04.2021.



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4. He would further submit that after the demise of the petitioner's husband Pandiarajan, the petitioner and her children were in middle of the street. At this juncture, on 21.01.1985, she got married with her husband's brother Gurusamy.

5. After the marriage, I, my children and my husband Gurusamy were living happily. Out of wedlock, I gave birth to a male child on 26.06.1987 and he was named as Subramanian. At this juncture, on 25.04.2018, my second husband Gurusamy breathed his last due to old age sick leaving behind me and my son Subramanian as his legal heirs.

6. He would further submit that after the demise of her second husband Gurusamy, she applied for death certificate before the Registrar of Birth and Death, Thiruthangal Municipality. Having considered her application, the Registrar of Birth and Death issued him a certificate on 11.09.2018. On the strength of the death certificate, she applied for legal heir certificate through online before the respondent and her online application No.TN720211111665. In the application, she specifically requested the respondent to issue legal heir certificate by mentioning himself and her son



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Subramanian are the legal heirs of her second husband Gurusamy. She paid a sum of Rs.60/- also.

7. After receipt of the application, the respondent never came forward to act upon her application. Absolutely there is no counter claim whatsoever. This Hon'ble Court time and again held that if there is no impediment for issuing legal heir certificate, the concerned Tahsildar should issue legal heir certificate to the applicant. In the case on hand, there is no impediment or counter claim whatsoever. But, the respondent for the reasons best known to him, did not come forward to act upon my application.

8. Since the respondent was keeping quiet in issuing legal heir certificate, she went to the office and requested him to disclose the status of her application. The subordinates of the respondent showed him the status of the application in their computer itself and asked him to take a photo of the same. After taking the photographs, she read the same. To her shock and surprise, the status showed that her application was rejected on the ground that she have 2 husbands. The respondent did not conduct any enquiry whatsoever before rejecting her application. The respondent did not send any rejection order to him. As the order of the respondent rejecting her application is illegal, violation of natural justice and arbitrary, hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.



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9.The learned Additional Government Pleader appearing for the respondent produced a letter, dated 28.10.2022 written by the Tahsildar, Sivakasi and submitted that the Tahsildar has conducted an enquiry and found that after the death of the first husband of the petitioner, namely Pandiarajan, the petitioner married one Gurusamy as second husband, who is the brother of the Pandiarajan. Through first husband she got three children namely, Mariammal, Arumugasamy and Ganesan and through the second husband she got one child, namely Subramanian. Now, she is widow and she seeks for issuance of legal heir certificate. She would further submit that already legal heir certificate was issued to the petitioner for her first husband and therefore, the authorities are not in a position to issue legal heir certificate for second husband and hence, they rejected her application.

10.Considering the limited scope of the prayer sought for by the petitioner and also considering the fact that after the death of the first husband, the petitioner married the second husband as after the demise of her first husband, herself and her children were in middle of the street, therefore, the petitioner is entitled to get the legal heirship certificate. The authorities are directed to consider the petitioner's application and issue legal heirship



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certificate.

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11. Accordingly, the writ petition stands allowed. The impugned order passed by the respondent, dated 18.11.2021 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

27.10.2022

Index : Yes/No
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To

The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.



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V.BHAVANI SUBBAROYAN, J.

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