



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.4039 of 2022

and

W.M.P. [MD]No.3466 of 2022

WEB COPY

Sathiskumar

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Thanjavore District.

2.The Revenue Divisional Officer,
RDO Office,
Thanjavore.

3.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

4.The Village Administrative Officer,
37, Pudur, Orathanadu,
Thanjavur District.

5.Kumaresan

6.Vasanth

7.Kalaimakal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned certificate dated 05.03.2015 issued by the fourth respondent / VAO to declare the sixth respondent as the owner of the properties viz., 1.Survey No.42/4 with Patta No.1340, to the extent of 0.05.5 hectares and 2.Survey No.42/5 with Patta No.1589, to the extent of 0.17.5 hectares in Orathanadu Punjayathu, 37-Pudur Village Group, Orathanadu Registrar Office, Thanjavur District in violation of the natural justice without hearing the remaining legal heirs namely Chinnayan and set aside the same and consequently direct to take legal action as per law within the stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar

For Respondents 1 to 4 : Mrs.S.Jeyapriya
Government Advocate



O R D E R

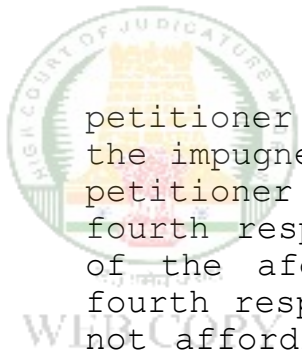
This Writ Petition has been filed challenging the impugned certificate issued by the fourth respondent declaring that the sixth respondent as the absolute owner of the properties viz., 1.Survey No.42/4 with Patta No.1340, measuring an extent of 0.05.5 hectares and 2.Survey No.42/5 with Patta No.1589, measuring an extent of 0.17.5 hectares in Orathanadu Panjayathu, 37-Pudur Village Group, Orathanadu Registrar Office, Thanjavur District.

2.The petitioner has challenged the aforementioned certificate issued by the fourth respondent on the ground of violation of principles of natural justice. According to him, without affording any opportunity of hearing to the petitioner, who is the legal heir of the deceased Chinnayan, the fourth respondent has issued the impugned certificate. According to the petitioner, only the Civil Court can pass a declaratory decree but whereas under the impugned certificate, the fourth respondent without jurisdiction and without authority under law has issued the certificate declaring the sixth respondent as the owner of the aforementioned properties. It is also disputed by the petitioner that the sixth respondent is not the legally wedded wife of deceased Chinnayan, the petitioner's father.

3.Heard Mr.R.Senthilkumar, learned Counsel appearing for the petitioner and Mrs.S.Jeyapriya, learned Government Advocate who accepts notice on behalf of respondents 1 to 4.

4.As seen from the impugned certificate, the petitioner has not been given any notice prior to issuance of the impugned certificate. The petitioner is the son of late Chinnayan, who died on 12.07.2013. Earlier the Tahsildar had issued a legal heirship certificate disclosing the legal heirs of late Chinnayan. The sixth respondent Vasantha was disclosed as the second wife in the said legal heirship certificate and the petitioner's name was also disclosed as one of the legal heirs of late Chinnayan. Earlier, the petitioner had challenged the issuance of legal heirship certificate disclosing the name of the sixth respondent as one of the legal heirs and sought for removal of her name on the ground that she is not a legally wedded wife of late Chinnayan. This Court by its earlier order dated 14.02.2022 passed in W.P.[MD]No.2890 of 2022 quashed the said legal heirship certificate on the ground of violation of principles of natural justice and remanded the matter back to the Tahsildar for fresh consideration on merits and in accordance with law after affording an opportunity of hearing to the petitioner and other legal heirs.

5.In the case on hand also, the Village Administrative Officer has issued a certificate declaring the title of the sixth respondent over the aforementioned properties which is also claimed by the



petitioner and other legal heirs of late Chinnayan. As seen from the impugned certificate, no notice of hearing has been given to the petitioner and without enquiry, a certificate has been issued by the fourth respondent declaring that the sixth respondent as the owner of the aforementioned properties. As in the earlier case, the fourth respondent has violated the principles of natural justice by not affording an opportunity of hearing to all the legal heirs of late Chinnayan and he has also declared the title of the sixth respondent over the aforementioned properties.

6.The contention of the petitioner is that such a declaratory certificate cannot be issued by the fourth respondent but can be granted only by the Civil Court. All these factors will have to be considered before a certificate of such a nature can be issued. But as seen from the impugned certificate, without affording opportunity of hearing to all the legal heirs, the said certificate has been issued. Therefore, this Court is of the considered view that principles of natural justice has been violated by the fourth respondent before issuing the impugned certificate. Hence, the impugned certificate has to be quashed and the matter has to be remanded back to the fourth respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and other legal heirs including Vasantha, the sixth respondent herein.

7.In the result, the impugned certificate dated 05.03.2015 issued by the fourth respondent is hereby quashed and the matter is remanded back to the fourth respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and other legal heirs of the deceased Chinnayan including the sixth respondent within a period of twelve [12] weeks from the date of receipt of a copy of this order.

8.With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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4.The Village Administrative Officer,
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+1 CC to M/s.R.SENTHILKUMAR, Advocate (SR-10553[F] dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10590[F] dated 08/03/2022)

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