



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

WEB COPY

W.P.[MD]No.4401 of 2022

and

W.M.P.[MD]Nos.3714 & 3715 of 2022

M.Kavitha

... Petitioner

Vs.

The Revenue Tahsildar,
O/o. Tahsildar, Kaariyapatti Taluk,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings in O.Mu.A9/4094/2021 dated 02.09.2021 and to quash the same as illegal, arbitrary and consequently directing the respondent to issue class-I legal heirship certificate to petitioner.

For Petitioner : Mr.R.Chandrasekar

For Respondent : Mr.M.Lingadurai

Special Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 02.09.2021 passed by the respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for her husband late Mayilvaganan on the ground that the petitioner is the third wife.

2. According to the petitioner, she married Mayilvaganan only after the death of his first wife and after the divorce decree obtained by Mayilvaganan in respect of his second wife. Therefore, according to the petitioner she is a legally wedded wife of her late husband Mayilvaganan. In such circumstances, she has applied for a legal heirship certificate for her husband to include her name as one of the legal heirs. The said application has been rejected under the impugned order on the ground that the petitioner is the third wife of the deceased Mayilvaganan. Aggrieved by the same, this writ petition has been filed.

3. Heard Mr.R.Chandrasekar, learned Counsel for the writ petitioner and Mr.M.Lingadurai, learned Special Government Pleader who accepts notice on behalf of the respondent.



4.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice as according to the petitioner without affording any hearing to the petitioner, the impugned order has been passed. It is also the contention of the petitioner that she is the legally wedded wife of late Mayilvaganan. According to her, only after the death of the first wife and only after the divorce obtained by Mayilvaganan in respect of his second wife, the petitioner has married him and therefore, she is a legal heir of the deceased Mayilvaganan as she is a legally wedded wife.

5.This Court has perused and examined the impugned order. As seen from the impugned order, no opportunity of hearing has been granted to the petitioner. The petitioner has produced documents before this Court to show that she is a legally wedded wife of the deceased Mayilvaganan and she has also produced divorce decree obtained by Mayilvaganan in respect of his second wife on 28.03.2019 in H.M.O.P.No.160 of 2016 on the file of Subordinate Court, Aruppukkottai. The petitioner has married Mayilvaganan only on 02.09.2019. The petitioner has also averred in the affidavit filed in support of this writ petition that the first wife of Mayilvaganan died prior to the divorce decree granted in respect of the second wife. All these factors have not been considered by the respondent in the impugned order. By a non-speaking order and by violating the principles of natural justice, the impugned order has been passed, rejecting the petitioner's application seeking for legal heirship certificate. Hence, the same has to be necessarily quashed and remanded to the respondent for fresh consideration after affording a fair hearing to the petitioner.

6.Accordingly, the impugned order dated 02.09.2021 is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair opportunity of hearing to the petitioner including granting her the right of personal hearing. The respondent is directed to pass final orders within a period of twelve [12] weeks from the date of receipt of a copy of this order after hearing the petitioner as well as other legal heirs of the deceased Mayilvaganan.

7.With the above direction, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

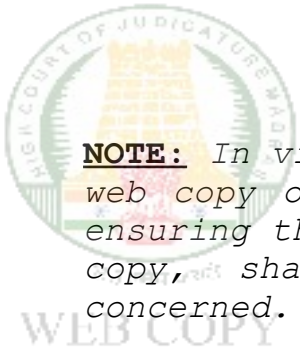
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar



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.

To
The Revenue Tahsildar,
O/o. Tahsildar,
Kaariyapatti Taluk,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-12171[F] dated 15/03/2022)

ORDER MADE IN
W.P. [MD]No.4401 of 2022
11.03.2022

MR
MS/22.03.2022/3P.3C