



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.7202 of 2022

and W.M.P. (MD) .No.5437 of 2022

WEB COPY

Dasan Rita Fernando

.. Petitioner

Vs

The Tahsildar,
Palayamkottai,
Tirunelveli District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the respondent rejecting the application of the petitioner in No.TN-7202106231287, dated 23.06.2021 and quash the same consequently, direct the respondent to issue Legal Heir Certificate to the petitioner and her daughter Josywin, within a time to be fixed by this Court.

For Petitioner

: Mr.V.Sasi Kumar

For Respondent

: Mr.T.Amjad Khan

Government Advocate

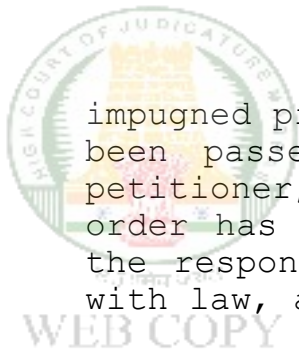
ORDER

This writ petition has been filed challenging the order, dated 23.06.2021, passed by the respondent, rejecting the petitioner's application, seeking for issuance of legal heirship certificate for her husband John De Britto, who died on 19.05.2021.

2.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice. According to the petitioner, no opportunity of hearing was granted to the petitioner by the respondent before passing the impugned order. According to the petitioner, though documentary evidence was placed before the respondent, the said documentary evidence has not been considered under the impugned order.

3.Heard Mr.V.Sasikumar, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate, who accepts notice on behalf of the respondent.

4.As seen from the impugned order, it is a non speaking order. Only reason given by the respondent for rejecting the petitioner's application is that the said application was rejected based on Subordinate Officer's recommendations. The copy of the recommendations, based on which, the respondent has passed the impugned order has also not been furnished to the petitioner. No opportunity of hearing has been granted to the petitioner in the



impugned proceedings. Being a non speaking order and an order having been passed without granting any opportunity of hearing to the petitioner, this Court is of the considered view that the impugned order has to be quashed and the matter has to be remanded back to the respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner.

5.For the foregoing reasons, the impugned order, dated 23.06.2021, passed by the respondent 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 hearing to the petitioner, including granting her the right of personal hearing and the respondent is directed to pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

6.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TM

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 Tahsildar,
Palayamkottai,
Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-19350[F] dated 19/04/2022)

+1 CC to M/s.V. SASI KUMAR, Advocate (SR-19782[F] dated 20/04/2022)

W.P. (MD)No.7202 of 2022
18.04.2022

SB (CO)

KB (02.05.2022) 2P 4C

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