



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.7295 of 2022

and W.M.P. (MD) .No.5537 of 2022

M.Vinoth

.. Petitioner

Vs

The Tahsildar,
Eral Taluk,
Thoothukudi District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the respondent in his proceedings in Online Application Rejection No. TN - 7202203161504, dated 16.03.2022, quash the same and consequently, directing the respondent to issue legal heir ship certificate on the death of petitioner father namely Murugan died on 19.01.2022, to petitioner and his family members, within time limit stipulated by this Court.

For Petitioner

: Mr.D.Selvanayagam

For Respondents

: Mr.M.Lingadurai

Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order, dated 16.03.2022, passed by the respondent, rejecting the petitioner's application, seeking for issuance of legal heirship certificate for the petitioner's father deceased Murugan, who died on 19.01.2022, on the ground that he was having two wives.

2.Heard Mr.D.Selvanayagam, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondent.

3.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice and on the ground that it is a non speaking order. The petitioner is the son of the deceased Murugan. The deceased Murugan died on 19.01.2022, leaving behind his three children namely Vinoth, the petitioner herein, Vinoliya and Vijay Shankar, who were born through his first wife namely M.Chandra, who predeceased the petitioner's father and four children namely Vivek, Vijay, Vithyasagar, Vinith and Visalatchi, who were born through his second wife namely M.Lakshmi,



who is alive.

4. Though the petitioner claims that the second wife M.Lakshmi is also a legal heir on the ground that the first wife M.Chandra was a mentally retarded person, the said contention is not legally sustainable. Whether the first wife is a mentally retarded or not is irrelevant for the purpose of bigamy. Therefore, the second wife Mr.Lakshmi cannot be legally declared as a legal heir of the deceased Murugan. She has to be necessarily excluded from the list of the legal heirs for the deceased Murugan.

5. The only ground for rejection of the petitioner's application is that the deceased Murugan was having two wives. The fact that the deceased was having two wives at the time of his death is admitted by the petitioner. But on that ground the respondent ought not to have rejected the petitioner's application for issuance of legal heirship certificate as there are other legal heirs to the deceased Murugan, in whose favour legal heirship certificate can be issued disclosing their names.

6. The impugned order is a non speaking order and has been issued without granting an opportunity of hearing to the petitioner and other legal heirs of the deceased Murugan. The petitioner claims that the deceased Murugan had three children out of his wedlock with his first wife M.Chandra and four children out of his second marriage with M.Lakshmi. Excluding M.Lakshmi, the remaining persons can be treated as legal heirs. Without examining the same, the respondent has issued the impugned order only on the ground that the deceased Murugan was having two wives.

7. Since the impugned order has been issued by violating the principles of natural justice and it is a non speaking order, the said order has to be necessarily 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 and other legal heirs of the deceased Murugan, including granting them the right of personal hearing, within a time frame to be fixed by this Court.

8. For the foregoing reasons, the impugned order, dated 16.03.2022, 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 and other legal heirs of the deceased Murugan, who died on 19.01.2022, including granting them the right of personal hearing. The respondent is directed to pass final orders, within a period of eight weeks from the date of receipt of a copy of this order. In terms of this order, the petitioner is directed to apply once again through online with the respondent and the respondent shall act upon the same and pass orders as directed supra.



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

Sd/-

Assistant Registrar (Records)

WEB COPY

// 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,
Eral Taluk,
Thoothukudi District.

+1 CC to M/s.D. SELVANAYAGAM, Advocate (SR-20011[F] dated 21/04/2022)

+1 CC to M/s.SPL.GP (SR-20109[F] dated 21/04/2022)

W.P. (MD)No.7295 of 2022
19.04.2022

SP (CO)
KB(16.05.2022) 3P 4C