



W.P(MD)No.18681 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18681 of 2022

Muneeswari

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thirupuvanam Taluk,
Sivagangai 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 impugned order in Na.Ka.A2/2125/2021 dated 07.09.2021 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the 2nd respondent to issue legal heir certificate of petitioner's father Karuppu.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.M.Prakash,
Addl. Government Pleader.



W.P(MD)No.18681 of 2022

ORDER

Heard the learned counsel on either side.

2.The petitioner's father originally got married to one Ramuthai. A son by name Adhilingam was born through the said wedlock. Even during the subsistence of the said marriage, the petitioner's father got married to the petitioner's mother namely, Eswari. Through the said relationship, the petitioner and her brother were born. The petitioner's father passed away on 22.11.2016. Ramuthai passed away in the year 2018. In this background, the petitioner submitted an application to the second respondent for issuance of legal heir certificate. Since the deceased Karupu was having two wives, the petitioner's request was rejected by the impugned memorandum dated 07.09.2021. Questioning the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner on instructions stated that the petitioner's mother namely, Eswari will file an affidavit that she will not claim the status of legal heir of Karupu. The said undertaking is recorded. Once Eswari is out of the picture, the second respondent need not have any difficulty in granting legal heir certificate to children born to Karupu. While the person who got married as a second wife during the subsistence of the first marriage



W.P(MD)No.18681 of 2022

cannot claim legal heir, the children born through such marriage are very much to be considered as legal heir.

4.In this view of the matter, the impugned memorandum is set aside and the matter is remitted to the file of the second respondent. Materials will be placed before the second respondent. After satisfying himself, the second respondent shall issue legal heir certificate in favour of the children born to Karupu whether through the first marriage or the second marriage. This exercise shall be concluded within a period of eight weeks from the date of receipt of a copy of this order.

5.The writ petition is disposed of accordingly. No costs.

17.08.2022

Index : Yes / No
Internet : Yes/ No
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To:-

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thirupuvanam Taluk,
Sivagangai District.



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W.P(MD)No.18681 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.18681 of 2022

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