



W.P.(MD)No.23453 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.10.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.23453 of 2022

M.A.Malaikannan

.. Petitioner

Versus

1.The District Collector,
Sivagangai.

2.The Tahsildar,
Kalayarkovil.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Memo of the second respondent in Na.Ka.A7/301/2022, dated 05.08.2022, quash the same and consequently, direct the second respondent to issue a certificate that 'Sonai' and 'Sappani' of Pottagavayal Village, Thadiyamangalam Group, Kalayarkoil Taluk, Sivagangai District, husband of Ezhuvakkal, grandfather of the petitioner's wife Maheswari, are one and the same person.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.A.Kannan
Additional Government Pleader



W.P.(MD)No.23453 of 2022

ORDER

WEB COPY

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, seeking to quash the impugned Memo of the second respondent in Na.Ka.A7/301/2022, dated 05.08.2022, and consequently, direct the second respondent to issue a certificate that 'Sonai' and 'Sappani' of Pottagavayal Village, Thadiyamangalam Group, Kalayarkoil Taluk, Sivagangai District, husband of Ezhuvakkal, grandfather of the petitioner's wife Maheswari, are one and the same person.

2.The case of the petitioner is that his wife's grandmother namely, Ezhuvakkal, W/o.Sappani @ Sonai, owned 0.16.50 Hectares of Nanja lands in S.No.207/5, Pottagavayal Village and a house site, measuring an extent of about 5 cents in the said Village. She had executed a Will, dated 15.06.2012, bequeathing the said lands to the petitioner's wife namely, Maheswari. She had a daughter, namely, Kaani and a son. Both of them had no issues. The said Ezhuvakkal died on 17.08.2012. In the Death Certificate, her husband name has been mentioned as "Sonai", whereas, in the Will executed by her, she claims to be the wife of one Sonai @ Sappani. In the Small/Micro Agriculturists Identity Card issued to the said Ezhuvakkal, her husband name has been mentioned as "Sappani". Further, in the Patta Pass Book, the landholder name has been mentioned as "Sappani". When the petitioner



W.P.(MD)No.23453 of 2022

refused to grant the same on the ground that two different names have been mentioned as grandfather of the petitioner's wife in the revenue records.

3.The petitioner submits that both the names indicate the same person. In this regard, he had applied to the second respondent on 17.03.2022 to issue a Certificate that both the said Sappani and Sonai are one and the same person. Since there was no reply, the petitioner applied under the Right to Information Act, regarding the status of his claim. Thereafter, the petitioner received a reply from the second respondent Office stating that if he applies along with relevant documents, his request will be considered. The petitioner has not given any reply. Thereafter, on 19.06.2022 and 04.07.2022, the petitioner gave requests to the first respondent, seeking to direct the second respondent to issue the said Certificate. Thereafter, there was no response. Subsequently, on 05.08.2022, the second respondent issued a Memo stating that no certificate can be issued for dead persons that both the names indicate the same person and also directed to obtain a release deed from the other legal heirs and then, get the Patta transferred. According to the petitioner, the same is illegal and unsustainable. In the said circumstances, having left with no other effective and efficacious alternative remedy, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.



W.P.(MD)No.23453 of 2022

4.The learned counsel appearing for the petitioner submits that the impugned Memo has been issued without any notice to the petitioner and without any enquiry and also without giving any opportunity of hearing to the petitioner, the second respondent has issued the impugned Memo, rejecting the claim of the petitioner. He further submits that Ezhuvakkal had a daughter, namely, Kaani, who has no issues. The said Ezhuvakkal also had a son, who died leaving behind the petitioner's wife as his legal heir. Hence, there is no dispute regarding the legal heirship and therefore, there is no need for getting any release deed from one anyone. Further, the owner of the property executed a Will in favour of the petitioner's wife and therefore, the impugned Memo issued by the second respondent may be quashed and appropriate direction may be issued to the second respondent to issue the said Certificate.

5.The learned Additional Government Pleader appearing for the respondents submits that there are many discrepancies regarding the name of his wife's grandfather found in the application and also in the documents produced by the petitioner herein. The petitioner has to prove that the said Sappani and Sonai are one and the same person, by producing relevant documents. He further submits that based on the enquiry conducted by the Village Administrative Officer, Thadiyamangalam Group, and the report submitted by him on 07.07.2022, the second respondent has issued the



W.P.(MD)No.23453 of 2022

6.Considering the aforesaid facts and circumstances of the case, this Court is of the view that there are many discrepancies found regarding the name of his wife's grandfather in the application and also in the documents produced by the petitioner herein. The petitioner has to prove that the said Sappani and Sonai are one and the same person by producing relevant documents. Therefore, this Court is not inclined to entertain the Writ Petition and the same is liable to be dismissed.

7.Accordingly, this Writ Petition is dismissed with liberty to the petitioner to approach the authorities concerned to prove that the said Sappani and Sonai are one and the same person by producing relevant documents and the same shall be considered and appropriate orders shall be passed by them, on merits and in accordance with law, within a period of eight weeks thereafter. No costs.

Index : Yes/No
smn2

12.10.2022

To

1.The District Collector,
Sivagangai.

2.The Tahsildar,
Kalayarkovil.



WEB COPY



W.P.(MD)No.23453 of 2022

V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
W.P.(MD) No.23453 of 2022

12.10.2022