



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25302 of 2022

B.Aberna

..Petitioner

Vs

1.The District Collector,
District Collector Office,
Korampallam,
Thoothukudi.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thiruchendur.

3.The Tahsildar,
Taluk Office,
Thiruchendur.

4.Mevila P.Rayee

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the third respondent to consider the representation of the Petitioner, dated 6.10.2022 and 17.10.2022 seeking for cancellation of the legal heirship certificate issued by the third respondent in TN- 720220701593, dated 8.7.2022 and issue a fresh legal heirship certificate of the deceased Alwin by considering the representation of the Petitioner within the time stipulated by this Court.

For Petitioner :Mr.G.Mohan Kumar



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For Respondents: Mr. C. Satheesh
1 to 3 Government Advocate

For Respondent-4: Mr. B. N. Rajamohamed

ORDER

The Petitioner has prayed for issuance of a Writ of Mandamus directing the third respondent to consider the representation of the Petitioner, dated 6.10.2022 and 17.10.2022 seeking for cancellation of the legal heirship certificate issued by the third respondent in TN-720220701593, dated 8.7.2022 and issue a fresh legal heirship certificate of the deceased Alwin by considering the representation of the Petitioner within the time stipulated by this Court.

2. Mr. C. Satheesh, learned Government Advocate takes notice for the respondents 1 to 3 and Mr. B. N. Raja Mohamed, learned counsel takes notice for the third respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the Petitioner is that the Petitioner's parents namely, late. Don Bosco Rodrigo and Mevila P. Rayee had four children namely, Alicia, Alwin, Addison Rodrigo and the Petitioner himself. Except Alwin, all others got married and residing separately. As Alwin remained unmarried, the Petitioner's mother resided with him at No. 3/16, M. M. Street, Veerapandianpattinam, Thiruchendur and owned several properties. The



unmarried and had no linear descendants, his mother, brothers and sisters are the legal heirs of the deceased Alwin, as per section 43 of the Indian Succession Act. Whiles, the Petitioner's mother, the fourth respondent herein, on the ill advise of Alicia, had obtained a legal heirship certificate as if the fourth respondent alone is the legal heir of the deceased brother Alwin, on 8.7.2022. The third respondent also without verifying the facts had issued the above legal heirship certificate and with the help of the same, the properties being encumbered immediately thereafter. The petitioner, therefore, submitted a representation on 6.10.2022 to the third respondent requesting to include all the other legal heirs in the legal heirship certificate. Since no action was taken, the Petitioner submitted another representation, dated 17.10.2022 to the respondents 1 to 3 to cancel the erroneous legal heirship certificate and to issue a fresh legal heirship certificate including all the legal heirs. Since no action was taken, the Petitioner has come forward with this Writ Petition for the relief stated supra.

4. The learned Government Advocate appearing for the respondents 1 to 3 would submit that the legal heirship certificate was already issued was cancelled on 7.11.2022 and that the respondents 1 to 3 will consider the representation of the Petitioner after holding an enquiry with all the necessary parties and pass appropriate orders within the time limit specified by this Court.



5. In view of the above submission, this Court directs the third respondent to consider the representations of the Petitioner, dated 6.10.2022 and 17.10.2022 by conducting an enquiry on all the parties concerned in the subject-matter in issue and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition stands disposed of. No costs.

08.11.2022

Index : Yes/No

Internet: Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

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