



W.P.No.5302 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.5302 of 2023

Raj

.. Petitioner

Vs

1.The District Collector
Thiruvallur District
Collectorate Complex
Thiruvallur.

2.The Sub Collector
Thiruvallur District
Office of the District Collector
Thiruvallur.

3.Mariammal

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the first respondent to dispose the review application filed by the petitioner on 26.12.2022, as against the order in Na.Ka.No.1717/2022A4 dated 21.10.2022 passed by the second respondent herein, conduct an enquiry and thereafter pass orders on merits and in accordance with law, within a specified time limit that may be stipulated by this Court.



W.P.No.5302 of 2023

For Petitioner : Mr.M.Elumalai

For Respondents : Mr.M.Bindran
Additional Government Pleader

ORDER

The petitioner herein is the son of a certain Xavier, who married twice, first to the mother of the petitioner named Grace Elisa, and on her demise, he got married Jebakani sometime in 2003. Jebakani was stated not to be in cordial relation with Xavier and she left her matrimonial house. However, her marriage with his father Xavier is still subsisting and was not annulled. According to the petitioner, a certain Mariammal, the third respondent herein who was engaged as servant to look after the household work, now claims to be the legal heir of his father late Xavier, that she had obtained a legal heir certificate No.TN.72021091496 dated 23.09.2021 from the Tahsildar, Avadi. In the legal heir certificate, Mariammal was shown as wife, the petitioner herein is the son, and one Stella Mary as the daughter, who was born to Mariammal through Xavier.

2. Challenging the genuineness of the legal heir certificate, the petitioner preferred an application before the second respondent for its cancellation.



W.P.No.5302 of 2023

However, the second respondent confirmed the claim of Mariammal vide his order dated 21.10.2022, and directed the parties to approach the Civil Court. Thereafter, the petitioner preferred a review application before the first respondent on 26.12.2022, to review the order of the second respondent dated 21.10.2022. Till date, no enquiry was conducted by the first respondent in the review application and hence, he is before this Court in this writ petition.

3. Heard both sides. The contention of the petitioner is that the second respondent without setting aside the alleged legal heir certificate issued by the Tahsildar, had directed them to approach the Civil Court. It is also alleged by the petitioner that the said Mariammal on the pretext of this legal heir certificate, she claims the death-cum-retirement-benefit of his father late.Xavier, who was an employee of Madras Port Trust, and that till date, the pension was disbursed to her.

4. It is the contention of the petitioner that no hearing was given to him by the second respondent prior to the issuance of the legal heir certificate to Mariammal, and that no document was produced by her evidencing her



W.P.No.5302 of 2023

marriage with late Xavier, and that no enquiry was conducted on the review application filed by the petitioner which was filed in December 2022.

Hence, this Court directs the first respondent to dispose of the review application filed by the petitioner before it, within a period of six weeks from today.

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

06.07.2023

Index : Yes / No

Speaking order / Non-speaking order
ds

To:

1.The District Collector
Thiruvallur District
Collectorate Complex
Thiruvallur.

2.The Sub Collector
Thiruvallur District
Office of the District Collector
Thiruvallur.



WEB COPY



W.P.No.5302 of 2023

N.SESHASAYEE.J.,

ds

W.P.No.5302 of 2023

06.07.2023