



WEB COPY



W.P. No.3887 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.3887 of 2018

L. Udhayakumari

...Petitioner

vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.

2. The Revenue Divisional Officer,
Ambattur Taluk,
Ambattur,
Thiruvallur District.

3. The Tahsildar,
Madavaram Taluk Office,
Madhavaram,
Thiruvallur District.

4. The Tahsildar,
Aminjakarai Taluk Office,
Aminjakarai,
Chennai – 107.

5. L. Arulmozhi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for records viz., Legal Heir Certificate No.981-2014-A4, dated 24.02.2014 issued by the 3rd



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respondent and quash the same and direct the 4th respondent to issue fresh Legal Heir Certificate including G.L. Tejaswin.

For petitioner : Mr.S. Janarthanan

For respondents : Mr. E. Veda Bagath Singh,
Spl. Govt. Pleader

ORDER

This writ petition has been filed challenging the Legal Heir Certificate No.981-2014-A4, dated 24.02.2014 issued by the 3rd respondent and for direction to the 4th respondent to issue fresh Legal Heirship Certificate including the name of the petitioner's son.

2. The case of the petitioner is that she got married to G.Lakshmanan on 14.12.2011 at Arulmigu sri Sivakamasundari Samedha Chidambarasamy Temple, Thirumangalam, Villupuram District. It is averred that out of the said wedlock, her son G.L. Tejaswin was born on 24.08.2012. It is the case of the petitioner that at the time of her marriage with G. Lakshmanan, she was not aware of his earlier marriage with L.Arulmozhi, the 5th respondent herein. It is further stated that out of the wedlock with L.Arulmozhi and G. Lakshmanan, they are having one daughter by name Diya. It is also the case of the petitioner that the 5th respondent was in separation with her husband for many years.



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Thereafter, on 14.04.2013, G. Lakshmanan met with an accident and after continuous treatment, he died on 10.08.2013.

3. It is further stated that subsequently, she applied for Legal Heirship Certificate with the 4th respondent and the same was rejected stating that the deceased Lakshmanan had two wives. That being so, she filed a suit in O.S. No.6240 of 2014 on the file of XV Asst. City Civil Court for the relief of declaration that she and her son, who are plaintiffs therein. The said suit was partly decreed declaring G.L. Tejaswin as the legal heir of the deceased Lakshmanan. However, it came to light that prior to the aforesaid decreetal order, the impugned Legal Heirship certificate was issued stating that the 5th respondent, his daughter and the mother of the deceased are alone legal heirs of Lakshmanan. Ventilating the aforesaid grievances, she has submitted a representation to the 4th respondent for issuance of fresh Legal Heirship Certificate by including his minor son's name viz., G. Lakshmanan, which has not been considered by the respondents. Also she came to know that the 5th respondent has filed Writ Petition viz., W.P. No.6840 of 2017 before this Court with a prayer not to cancel the existing Legal Heirship Certificate. Aggrieved by the same, this writ petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner



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has taken many steps to include her name as well as her son's name in the Legal Heirship Certificate of the deceased Lakshmanan. Despite the same, the existing Legal Heirship Certificate issued in favour of the 5th respondent has not been cancelled. Hence, he prays before this Court for issuance of appropriate directions in the above regard.

5. Mr.E. Veda Bagath Singh, learned Special Government Pleader appearing for the respondents submits that the petitioner is not entitled to claim as Legal Heir of the deceased Lakshmanan. More so, the writ petition filed by the 5th respondent has been disposed of by this Court on 17.11.2022. Hence, the relief sought for by the petitioner for cancellation of the existing Legal Heirship Certificate is unsustainable and he prays for dismissal of this writ petition.

6. Heard Mr.S. Janarthanan, learned counsel for the petitioner and Mr.E. Veda Bagath Singh, learned Special Government Pleader for the official respondents.

7. The facts are not in dispute. Admittedly, there is a dispute between the petitioner and the 5th respondent. On perusal of records, it is evident that a Legal Heirship Certificate of the deceased Lakshmanan has been issued by the 3rd respondent in favour of the 5th respondent, who



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is the legally wedded wife of the deceased Lakshmanan. The petitioner as the 2nd wife of the deceased cannot, as a matter of right for issuance of Legal Heirship Certificate in respect of her son so long as the previous Legal Heirship Certificate is in force. Therefore, this Court under Article 226 of the Constitution of India cannot entertain this writ petition. Thus, the prayer sought for by the petitioner for cancellation of the existing Legal Heirship Certificate has to be negatived.

8. For the aforesaid reasons, this writ petition fails and accordingly, the same is dismissed. However, the aggrieved party / petitioner's minor son is at liberty to approach the competent Civil Court / authority to establish his right for inclusion of his name in the Legal Heirship Certificate / for issuance of fresh Legal Heirship Certificate in accordance with law. No costs.

08.03.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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M.DHANDAPANI, J.

vsi2

To

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