



W.P.No.10461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.10461 of 2023

and

W.M.P.No.10408 of 2023

Govindarasu

... Petitioner

Vs.

1.The District Collector,
Cuddalore District,
Cuddalore.

2.Revenue Divisional Officer,
Vridhachalam Taluk,
Vridhachalam.

3.Thasildar,
Vridhachalam Taluk,
Vridhachalam.

4.Neyveli Lignite Corporation,
Rep by its Chairman cum Managing Director,
Block-1,
Neyveli.

5.Central Bank of India,
Rep by its Manager,



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Gangaikondan Branch,
Neyveli – 607 802.

6.Palanivel

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 2nd respondent to take up the appeal submitted by the petitioner vide his representation dated 27.03.2023, with the issue with regard to the grant of legal heir certificate pertaining to late Thambusamy S/o Veeran of Seplanatham Village, Seplanatham North Post, Vridhachalam Taluk, Cuddalore District, in favour of the 6th respondent, if any and also to direct the 5th respondent not to proceed any further with regard to disbursal of the amount or claim till appropriate is passed by the 2nd respondent.

For Petitioner : Mr.P.Paramasivadoss

For Respondents : Mr.E.Veda Bagath Singh
Special Government Pleader
[R1 to R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the second respondent to take up the appeal submitted by the petitioner vide his representation dated 27.03.2023, with the issue with regard to the grant of legal heir certificate pertaining to late Thambusamy S/o Veeran of Seplanatham Village, Seplanatham North Post,



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Vridhachalam Taluk, Cuddalore District, in favour of the 6th respondent, if any and also to direct the 5th respondent not to proceed any further with regard to disbursal of the amount or claim till appropriate order is passed by the second respondent.

2. The case of the petitioner is that the petitioner is the sister's son of Thambusamy and he was a bachelor and never married during his life time. He worked in the Neyveli Lignite Corporation in various designation and finally he retired from service on 30.06.2006. On his retirement, he settled along with petitioner's mother. Unfortunately, he died on 24.03.2014 leaving behind the petitioner and other members of the family. While so, the sixth respondent, who is not related to the deceased had filed a civil suit in O.S.No.12 of 2021 on the file of the Judicial Magistrate Court, Neyveli as against the respondents 1 and 3 for grant of legal heir certificate in his favour. Accordingly, the suit was decreed *ex-parte* on 01.02.2023. On the strength of the said decree, the sixth respondent obtained a legal heir certificate from the third respondent and taken effective steps to withdraw the amount lying in the name of the deceased Thambusamy, for which, the petitioner preferred an



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appeal before the second respondent. Since the same was not considered, the petitioner filed the present writ petition before this Court for appropriate directions.

3. The learned counsel for the petitioner submits that, already the petitioner had taken effective steps and approached the District Court by way of a succession original petition. However, in the meanwhile, the fifth respondent-Bank taken steps to disburse the amount lying in the name of the deceased in favour of the private respondent based on the legal heir certificate issued by the third respondent. Accordingly, he prayed for appropriate orders.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 submits that, the third respondent has granted legal heir certificate in favour of the sixth respondent based on the *ex-parte* decree passed by the Trial Court. Hence, he submits that, without challenging the *ex-parte* decree, filing this writ petition is not sustainable. Accordingly, he prays for dismissal of this writ petition.



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5. Heard Mr.P.Paramasivadosh, learned counsel for the petitioner and Mr.E.Veda Bagath Singh, learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

6. The facts in the present case is not in dispute. Admittedly, the sixth respondent obtained an *ex-parte* order, by which, he obtained a legal heir certificate in his favour from the third respondent. Based on which, he taken effective steps to withdraw the amount lying in the name of the deceased, for which, the petitioner made an appeal before the second respondent. However, the same was not considered by the second respondent. Since the legal heir certificate granted in favour of the sixth respondent is based on the *ex-parte* decree granted by the Trial Court, unless the petitioner challenge the *ex-parte* decree in the manner known to law, the present appeal preferred by the petitioner before the second respondent is not sustainable. Hence, the prayer sought for by the petitioner cannot be granted.



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7. Accordingly, the writ petition is disposed of granting liberty to the petitioner to workout the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

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Vridhachalam.
- 3.The Thasildar,
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- 4.The Chairman cum Managing Director,
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