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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.9851 of 2020

1. Indira Priyadarshini
2. Asvini @ Bhuvaneswari
3. Sreenivasan ... Petitioners

Vs

1. The Tahsildhar
Taluk Office Complex,
Chenglepet.

2. Santhanalakshmi @ Saraswathi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent herein and cancel the legal heirship certificate Pa.Mu.4388/2006/A4, dated 23.06.2006 issued by suppressing the material facts and to quash the same as it was issued without conducting a proper enquiry to the second respondent.

For Petitioners : Mr.P.Subbareddy
For Respondents : Mr.V. Manoharan,
Addl. Govt. Pleader for R1

ORDER

This writ petition has been filed to call for the records of the first respondent herein and cancel the Legal Heirship certificate

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Pa.Mu.4388/2006/A4, dated 23.06.2006 issued by suppressing the material facts and to quash the same as it was issued without conducting a proper enquiry to the second respondent.

2. It is the case of the petitioners that the 1st petitioner married Sundaramoorthy in the year 1987 and out of the said Wedlock, they have been blessed with a male and a female child, who are the 2nd and 3rd petitioners herein. While so, the 1st petitioner's husband died on 18.12.2004. Subsequent to death of Sundaramoorthy, the 2nd respondent filed a suit in O.S. No.86 of 2005 on the file of VII Additional Family Court at Chennai and obtained a decree in her favour, thereby it has been declared that the 2nd respondent is the legally wedded wife of the deceased and she is entitled to receive the terminal benefits. Thereafter, the 2nd respondent approached the revenue officials and by suppressing the above facts has obtained a Legal Heirship Certificate of the deceased, by which, she received the death benefits as well as obtained a job for her daughter on compassionate grounds. It is the grievance of the petitioner that the 2nd respondent acted fraudulently and she obtained the said Certificate, without including the the

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names of the petitioners. Aggrieved over the same, this writ petition has been filed to quash the said Legal Heirship Certificate, dated 23.06.2006 issued by the 1st respondent.

3. Learned counsel for the petitioners submitted that the 2nd respondent was fully aware of the fact that her husband had two wives and children, whereas without disclosing the same, she fraudulently obtained the impugned Legal Heirship Certificate, which is unsustainable and illegal. Also, he submitted that the 1st respondent without conducting proper enquiry has issued the said Certificate, which is non est in law. Hence, he seeks for quashing of the said Certificate and thereby prays before this Court for allowing this writ petition.

4. Learned Additional Government Pleader appearing for the 1st respondent submitted that after conducting proper enquiry, the Legal Heirship Certificate has been issued by the 1st respondent. He strongly argued that the 2nd respondent has received the terminal benefits as well as job on compassionate basis and not based on the said certificate, but based on the Civil Court decree issued in favour of the 2nd respondent as the legally

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wedded wife of the deceased. More so, he submitted that aggrieved over the said decree, an appeal has been preferred by the petitioners. Such being the position, this Court may not interfere with the impugned certificate and he prays for dismissal of this writ petition.

5. This Court bestowed its best attention to contentions advanced by the learned counsel on both sides and perused the materials available on record.

6. The facts in the case are not in dispute. On perusal of records, it reveals that Sundaramoorthy died on 18.12.2004. It is an admitted fact that the 2nd respondent has filed a suit in O.S. No.86 of 2005 on the file of VII Additional Family Court at Chennai in the month of June 2005, wherein the 1st petitioner herein has been arrayed as the 1st respondent and the employer of the deceased viz., Corporation of Chennai has been arrayed as the 2nd respondent. Further, it is crystal clear that the suit was decreed on 20.02.2018 in favour of the 2nd respondent herein, who is declared to be legally wedded wife of the deceased and thereby, she is entitled to receive the terminal benefits. In the interregnum period viz., in the month of June 2006, the 2nd respondent has approached the 1st respondent for issuance of

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Legal Heirship Certificate and admittedly, the said Certificate was issued to the 2nd respondent on 23.06.2006. From the submissions, it is noted that aggrieved over the said Civil Court decree, an appeal has been preferred by the petitioners, thus the said decree has attained the finality. When a decree in existence against which an appeal has been filed, this Court, under Article 226 of the Constitution cannot quash the impugned order, which is based on the decree passed by the Civil Court. Therefore, the petitioner has to get her grievance redressed by prosecuting the appeal and not by way of the present writ petition.

7. For the reasons aforesaid, the writ petition stands dismissed. However, it is open to the petitioners to canvass all their submissions in the appeal which has been filed against the decree issued in favour of the 2nd respondent. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2023

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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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M.DHANDAPANI, J.

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To
The Tahsildhar
Taluk Office Complex,
Chenglepet.

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