



W.P.No.17627 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.17627 of 2023

Karthikeyammal

...Petitioner

Vs.

1. The U.T. of Puducherry,
Rep. by the Deputy Collector (Revenue) South,
Office of the Deputy Collector (Revenue) South,
Villianur, Puducherry.

2. Manjula

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to No.6814/DCRS/B7/LHC/2022/24 Villianur dated 09.01.2023 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.S.Subramanian

For Respondents : Mr.K.Sreedharan, AGP (Puducherry), for R1
: Mr.T.Dharani, for R2



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ORDER

The petitioner has come up with this Writ petition seeking quashment of the proceedings of the 1st respondent in No.6814/DCRS/B7/LHC/2022/24 Villianur dated 09.01.2023.

2. The case of the petitioner is that the petitioner married one Kathavarayan in the year 1986 and out of their wedlock, they were blessed with two children, While so, the said Kathavarayan died on 08.06.2022, leaving behind the petitioner and her children as his sole surviving Legal heirs. Thereafter, the petitioner made an application before the Tahsildhar, Villianur, seeking issuance of Legal Heirship Certificate of her deceased husband Kathavarayan and the same was also issued in her favour on 10.08.2022, after scrutinising the documents submitted by the petitioner. While such being the case, on 09.12.2022, the petitioner received a notice from the 1st respondent calling upon her to appear for enquiry on 14.12.2022, which was issued pursuant to the application filed by the 2nd respondent, seeking cancellation of Legal Heirship Certificate issued in favour of the petitioner. Thereafter, the 1st respondent conducted enquiry



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and passed the present impugned order dated 09.01.2023 bearing No.6814/DCRS/B7/ LHC/2022/24 Villianur, cancelling the Legal Heirship Certificate issued in favour of the petitioner and directed the petitioner to approach the competent legal forum. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, the petitioner is the legally wedded wife of the said Kathavarayan and she married the said Kathavarayan at the age of 14, which is only a voidable marriage and the same cannot be claimed as illegal and the same cannot be held as against the petitioner for obtaining Legal Heirship Certificate in her favour. He further submitted that, though the 2nd respondent claims that she is the 1st wife of the said Kathavarayan, however, no proof was submitted before this Court to substantiate her claim, whereas, the petitioner filed all necessary documents including, the Marriage certificate, Birth certificates of her children etc., In such circumstances, the cancellation order of the 1st respondent is liable to be interfered with by this Court. Hence, he prayed for appropriate orders.



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WEB CONTENT

4. Learned counsel appearing for the 1st respondent submitted that, initially, the petitioner made an application for issuance of the Legal Heirship Certificate of her deceased husband Kathavarayan, pursuant to which, the petitioner was issued with Legal Heirship Certificate on 10.08.2022 by mentioning the petitioner's and her children's name as the legal heirs of the deceased Kathavarayan, as per the report of the Village Administrative Officer and since no objection was received. Subsequently, the 2nd respondent made an objection stating that she is the wife of the deceased Kathavarayan, pursuant to which, enquiry was conducted on 14.12.2022 and thereafter, the present order under challenge came to be passed, cancelling the Legal Heirship Certificate dated 10.08.2022 with a direction to the parties to approach Competent Legal forum, since, as per the Government order of Puducherry in G.O.Ms.No.17/DRDM/C2/2021 dated 18.11.2021, the Deputy Tahsildars/Tahsildars has no authority to issue legal heirs certificate when the deceased person is having one or more spouse and they are having children, and also if there is any settlement disputes and the parties have to be informed to approach the Competent Civil Court for obtaining the Legal Heir Certificates. Hence, the impugned order is perfectly in order and the same cannot be stated as illegal and accordingly,



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prayed for dismissal of this Writ petition.

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5. Learned counsel for the 2nd respondent submitted that, the 2nd respondent is the 1st wife of the deceased Kathavarayan and out of their wedlock, they were blessed with three children. However, suppressing the above said facts, the petitioner herein has obtained legal heirship certificate in her favour in respect of the deceased Kathavarayan without disclosing the real facts and after knowing the said act of the petitioner, the 2nd respondent made an objection and pursuant to which, the 1st respondent conducted enquiry and subsequently, passed the present order under challenge, cancelling the Legal heirship certificate issued in favour of the petitioner, which cannot be interfered with. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. Admittedly, the petitioner obtained Legal heirship certificate of her



deceased husband Kathavarayan in her favour, which was subsequently cancelled, upon receipt of an objection from the 2nd respondent, who claims to be the wife of the deceased Kathavarayan. Further, as per the Government order of Puducherry in G.O.Ms.No.17/DRDM/C2/2021 dated 18.11.2021, prescribing guidelines/procedure to issue Legal Heir Certificate, the Deputy Tahsildars/Tahsildars shall not issue legal heirs certificate for the following cases. For better appreciation, the relevant portion is extracted hereunder:

“a. Class II legal heirs or indirect legal heirs mentioned in the schedule under Section 8 of the Hindu Succession Act, 1956.

b. Siblings of the deceased cannot claim legal heirs certificate from the Tahsildar/Deputy Tahsildars, as they come under Class II legal heirs or indirect legal heirs. However, they can submit application for issuance of legal heir certificate in favour of their father/mother and in view of age/literacy constrains, if any.

c. on enquiry, when the deceased person is having one or more spouse and they are having children, and also if there is any settlement disputes.

d. In case, of the person treated as dead, who is missing for a period of years or more and staying away from the family.

e. In the case of adopted child without valid adoption deed registered as per the Hindu adoption and Maintenance Act, 1956.

f. No certificate shall be issued under Indian Succession Act, 1925 and to the heirs of the French or



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other nationals”

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(j) If any, persons disputes the issued legal heir certificate, an appeal petition shall be filed before the Sub-Divisional magistrate concerned within a period of one year from the date of issue of the certificate for making alterations, corrections, deletions or inclusions. The Sub-Divisional Magistrate shall pass appropriate orders and any legal heir certificate obtained by suppression of facts shall be cancelled after due enquiry.

8. In view of the above said condition, the 1st respondent has passed the present impugned order dated 09.01.2023, cancelling the Legal heirship Certificate issued in favour of the petitioner, which cannot be interfered with. However, rendering any opinion on the merits of the case will adversely affect the interest of both parties. Hence, the prayer sought for by the petitioner cannot be acceded to. However, the petitioner is at liberty to approach the competent Civil Court to workout the remedy in the manner known to law.

9. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

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(1/2)

skt

NCC : Yes / No

7/9



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Speaking Order : Yes / No

Index : Yes / No

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To

The U.T. of Puducherry,
Rep. by the Deputy Collector (Revenue) South,
Office of the Deputy Collector (Revenue) South,
Villianur, Puducherry.

M.DHANDAPANI., J.

skt

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WMP.No.16715 of 2023

in

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M.DHANDAPANI., J.

Dispense with ordered for the
present.

21.06.2023

(2/2)

skt