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Writ Petition No.16012 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 9/3/2023

C O R A M

THE HONOURABLE Mr.JUSTICE **M.DHANDAPANI**

Writ Petition No.16012 of 2018

a n d

W.M.P.No.19038 of 2018

M. Malathi

...

Petitioner

Vs

1. The District Collector
Chennai District
Singaravelar Maaligai, Rajaji Salai
Chennai 600 001.
2. The Tahsildar
Mylapore – Triplicane Taluk
Chennai 600 028.
3. The Tahsildar
Tiruvanmiyur – Velacherry Circle
Taramani
Chennai.
4. Poongavanam
5. M. Dhanalakshmi

...

Respondents



Writ Petition No.16012 of 2018

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to direct the second respondent to call for the records connected in D.Dis.B4/29839/2013 dated 2/9/2013 and quash the same and consequently, direct the third respondent to issue a Legal Heirship Certificate to the petitioner immediately.

For Petitioner	...	Mr.E.Veda Bagathsingh Special Government Pleader for R.R.1 to 3.
For respondents	...	No appearance for R.R.4 to 5.

ORDER

This writ petition has been filed to quash the order, dated 2/9/2013, passed by the second respondent in D.Dis.B4/29839/2013 and consequently, direct the third respondent to issue a Legal Heirship Certificate to the petitioner.

2. Brief facts which are necessary for the disposal of this writ petition are as follows:-

Petitioner's father deceased Mathivanan, during his lifetime married



her mother Jayarani, at Chennai and out of wedlock, petitioner was born on 17/10/1986. Due to matrimonial disputes, petitioner's parents got separated.

During his lifetime, he was working as Sub-staff at State Bank of India, Shastri Nagar Branch, Chennai and died on 13/7/2013, leaving behind the petitioner as Class I legal heir.

3. The fourth defendant, who is the brother of late Mathivanan, is also working in the same Bank, trying to avail death benefits of Mathivanan, from the Bank, alleging that he is the legal heir of late Mathivanan. Hence, the petitioner has filed O.S.No.635 of 2014 before the VII Assistant City Civil Court, Chennai.

4. Whereas, the fourth and fifth respondents had filed a writ petition, in W.P.No.8180 of 2014, alleging that they are the wife and daughter of Late Mathivanan, to direct the Chief General Manager and General Manager of State Bank of India, to dispose of the representation, dated 2/9/2013, in respect of settlement of the retirement benefit of the Government employee. Vide, order, dated 15/11/2017, this Court has dismissed the prayer sought for by the respondents 4 and 5.

5. Even after the dismissal of W.P.No.8180 of 2014, third respondent,



did not take any steps to cancel the Legal Heir Certificate. Hence, the petitioner has submitted a representation to the first respondent, dated 19/9/2015. Since the same has not been considered so far, the petitioner has come forward with the instant writ petition.

6. Heard Mr.K.Sannjay, learned counsel for the petitioner and Mr.E.Veda Bagath Singh, learned Special Government Pleader for the respondents 1 to 3. There is no representation on behalf of the fourth and fifth respondents.

7. The learned counsel appearing for the petitioner submitted that fourth and fifth respondents had falsely obtained Legal Heir Certificate from the Revenue Authorities, vide, Proceeding dated 2/9/2013. Without conducting any enquiry, second respondent has issued Legal Heir Certificate to the respondents 4 and 5. Hence the Legal Heir certificate issued by the second respondent is not a sustainable one.

8. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that as against the order of Tahsildar, an appeal can be filed with the Revenue Divisional Officer, within one year of



issuance of the certificate or rejection of the application. The power of revision of the orders passed by the Revenue Divisional Officer rests with the District Revenue Officer, and a revision petition shall be filed within a year of an order having been passed on an appeal. Without exhausting such a remedy, the petitioner has filed the instant writ petition.

9. I have perused the materials available on record.

10. To prove the relationship of legal heir with the deceased, a marriage registration certificate, passport, voter ID, Aadhaar card, community certificate, or any other similar document should be furnished. To substantiate the case, the petitioner has not produced any of the above documents, before this Court. Moreover, Civil Suit filed by the petitioner has not reached finality. In such a view of the matter, this Court is of the considered view that when the Civil Suit is pending before the competent Civil Court, at this stage, this Court cannot decide the dispute in issue.

11. In the result, this writ petition is dismissed. Liberty is granted to the petitioner to approach the competent Civil Court, Chennai, for



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M.DHANDAPANI,J

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mvs.

appropriate relief. No costs. Consequently, the connected Miscellaneous
Petition is closed.

9/3/2023

Index : Yes / No

Internet: Yes

Speaking/non speaking order

Neutral Citation: Yes/No

mvs.

To

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