



W.P.No.21379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.21379 of 2023
and W.M.P.No.20789 of 2023

Akshai Swaminathan

... Petitioner

Vs.

1.The District Collector,
Singaravelan Maligai,
Kamarajar Salai,
Chennai – 600 001.

2.The Tahsildar,
Egmore Taluk,
Spurtank Road,
Chetpet – 600 031.

3.The Revenue Divisional Officer,
Guindy, Chennai – 600 032.
(The third respondent is impleaded Vide the
order of this Court dated 27.07.2023)

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the proceedings in pursuant the 2nd respondent in proceedings No.Nil dated Nil in



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Transaction Reference No.TNTACCHN003000038610 request for REV-114 Legal Heir Certificate and quash the same as illegal and consequently to restore the Legal heir certificate No.TN-720180423151 dated 29.5.2018 which includes the Petitioner's name namely Akshai Swaminathan forthwith.

For Petitioner : Mr.P.Rajendra Kumar
For Respondents : Mr.V.Manoharan,
Additional Government Pleader

ORDER

The petitioner claims that he is the adopted son of late.Swaminathan and that earlier a legal heir certificate was issued by the second respondent to the petitioner. However, to his dismay, he recently found in the online portal that the legal heir certificate earlier issued was rejected without any notice.

2.The learned counsel for the petitioner contends that the petitioner was legally adopted by his grandfather when he was a minor and was stranded in the cross-wire of a marital dispute between his parents. He also submitted that the customary adoption took place after all the customary rituals and a deed of adoption came to be registered on 12.12.2013. He also submitted that the document is more an evidence of the adoption that took place earlier in 1996.



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3. In other words, his submission is that the adoption has not taken place under the deed of adoption but, it is only a record for the adoption that took place earlier. He also submitted that he has no hardship from the other heirs of Late.Swaminathan.

4. Mr.V.Manoharan, the learned Additional Government Pleader brought to the notice of the Court G.O.Ms.No.478, Revenue and Disaster Management dated 29.09.2022 and submitted that the Tahsildar is required to issue legal heir certificate to an adopted child, only if the adoption is made legally. Under Hindu Adoptions and Maintenance Act, there is no mandate for registering the adoption and all it requires is that the customary practice associated with the community of the adopted child needs to be practised. A deed of Adoption will only give the adoption a greater credence. But, adoption without it, need not necessarily be illegal.

5. This Court *suo motu* impleads the Revenue Divisional Officer, Guindy, Chennai – 600 032 as the third respondent.



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6.The Registry is directed to carry out necessary amendments in the cause-title.

7.Mr.V.Manoharan, learned Additional Government Pleader takes notice for the third respondent.

8.The petitioner is now required to approach the Revenue Divisional Officer/third respondent with his appeal and the RDO is required to appreciate the peculiar case of the petitioner herein and is also required to appreciate the documentary evidence which supports his case. The Revenue Divisional Officer is also required to apply his mind independently to the facts and evidence before it and also the legal position of them, rather than giving his own conclusion contrary to law.

9.The petitioner is now required to file his appeal before the third respondent within a period of two (2) weeks from the date of receipt of a copy of this order. The third respondent is required to dispose of the appeal within the next twelve (12) weeks.



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10.The Writ Petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

27.07.2023

Tsg

Index : Yes / No

Neutral citation : yes/no

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N.SESHASAYEE, J.

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