



WEB COPY



W.P.No.25855 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.09.2023

Pronounced on : 30.11.2023

CORAM : JUSTICE N.SESHASAYEE

W.P. No.25855 of 2023

Chinnapillai

... Petitioner

Vs.

1.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Salem District.

2.The Tahsildar
Vazhapadi Taluk Office
Salem District.

3.The Revenue Inspector
Ambedkar Nagar
Mannaikkanpatti New Colony
Vazhapadi Post and Taluk
Salem District.

4.The Village Administrative Officer
Mannaikkanpatti New Colony
Vazhapadi Post and Taluk
Salem District.

5.Nirmala



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6.The Principal Secretary

Revenue and Disaster Management

Fort St.George, Chennai - 600 009.

... Respondents

[R6 *suo motu* impleaded vide order dated
04.09.2023 in W.P.No.25844 of 2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to dispose of petitioner's appeal which is pending before the first respondent, dated 05.03.2023.

For Petitioner : Mr.R.Dinesh Kumar

For Respondents : Mr.C.Kathiravan
Special Govt Pleader [R1 to R4 & R6]

ORDER

The petitioner claiming herself to be the sole legal heir of her only son Chinnapayyan, had earlier filed W.P.No.3239 of 2022 seeking a direction to the Revenue Inspector, third respondent to issue a legal heir certificate. Pending litigation in that writ petition, the learned Government Advocate has brought to the notice of the Court that the deceased Chinnapayyan was working as a Village Assistant, and that he had executed a nomination form in favour of a certain Nirmala, who claims herself to be the wife of the



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deceased, to receive the retirement benefits of Chinnapayyan. But, according to the petitioner herein, she is the only legal heir of Chinnapayyan, and that his first marriage was nullified, and he has no children out of the wedlock, and he had never had contracted a second marriage. This Court vide its order dated 21.02.2022 had allowed the said writ petition, pursuant to which, the second respondent has issued the legal heirship certificate on 08.04.2022, certifying both the petitioner herein and Nirmala as the legal heirs of the deceased Chinnapayyan.

2. Claiming that the respondent concerned without conducting proper enquiry, had issued the legal heir certificate dated 08.04.2022, the petitioner preferred an appeal before the first respondent on 05.03.2023, to cancel the legal heir certificate to delete the name of Nirmala, and that the same is pending till date. Hence, this petition seeking a mandamus to the first respondent to dispose of her appeal.

3. Heard the learned Government Advocate. The learned Government Advocate submitted that the Tahsildar acts only within the scope of G.O.(Ms.) No.478 Revenue & Disaster Management, Revenue



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Administration Wing, RA-3(2) Section, dated 29.09.2022, and he is not permitted to decide the disputed question on legal status.

4. While this Court agrees with the statement made by the learned Government Advocate, this Court now merely directs the first respondent to decide the case and dispose of the appeal dated 05.03.2023, within a period of eight weeks from the date of receipt of a copy of this order.

5. The writ petition is accordingly disposed of. If any controversy continues to persist after the disposal of the appeal, the petitioner is advised to approach the competent civil court, since whether the petitioner's son had ever married the aforesaid Nirmala is a question on fact, and that cannot be decided by this Court in writ jurisdiction. No costs.

30.11.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

ds

Pre-delivery order in
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