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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 34239 of 2022

K.Sokkammal

... Petitioner

..Vs..

1. The Tahsildar
Nungambakkam Taluk
Spur Tank Road
Chennai 600 031.

2. K.Saraswathi

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondent to issue legal heir certificate to the petitioner's deceased husband by considering her Application No. -720211129735 dated 29.11.2021.

For Petitioner

:: Mr. G.Peranban

For 1st Respondent :: Mr. M.Muthusamy

Government Advocate

**ORDER**

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The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondent / Tahsildar, Chennai, to issue legal heirship certificate with respect to the husband of the petitioner herein.

2. The petitioner had filed A.No. -720211129735 on 29.11.2021 seeking legal heirship certificate. The petitioner herein is the first wife of N.R.Kuppusamy. She has four sons and one daughter. Giving the list of all the legal heirs, she had applied for legal heirship certificate with the respondent. The respondent however had rejected the same stating that the deceased Kuppusamy had another wife.

3. This Court had impleaded the other wife K.Saraswathi as second respondent to this Writ Petition. The petitioner and K.Saraswathi are both sisters.



4. A counter has been filed by the respondent stating that it has to be verified whether there are any children born through K.Saraswathi and if there are, then they would also be categorised as legal heirs. However it is seen that the order had been passed with just two words, application rejected and thereafter, it had been stated that the deceased had two wives and the second marriage was performed when the first wife was still alive. If as a fact, any children had been born through the second wife, they can be categorised as further legal heirs.

5. This is issue on fact which could be examined by the respondent herein. Even prior to examining that particular aspect, the application has been rejected. Though the Writ Petition has been filed in the nature of Mandamus, I would exercise my plenary powers and set aside the order of the respondent dated 29.11.2021 and remand the matter back to the respondent / Tahsildar with a direction to issue notice to the petitioner, issue notice to the second wife K.Saraswathi and thereafter examine both of them and also examine the details of their children and then proceed to do the needful. The exercise should be completed on or before 31.03.2023.



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C.V.KARTHIKEYAN, J.,

vsg

6. The Writ Petition stands disposed of. No order as to costs.

15.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

The Tahsildar
Nungambakkam Taluk
Spur Tank Road
Chennai 600 031.

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