



W.P(MD)No.2977 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.2977 of 2022

and

W.M.P.(MD)No.2610 of 2022

P.Ramesh

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

2.The Tahsildar,
Virudhunagar.

3.Peria Ramuthai @ Ramuthai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order passed in P.μ.அ5/7733/2021 dated 04.02.2022 passed by the first respondent and quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents 1 and 2 : Mr.N.Muthuvijayan,
Special Government Pleader

ORDER

This writ petition has been filed questioning an order dated 04.02.2022,



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passed by the Revenue Divisional Officer at Aruppukottai, Virudhunagar District, who is the first respondent herein. The first respondent had interfered with an earlier order recognizing the petitioner as the legal heir of one K.Perumalsamy. The order recognizing the petitioner as legal heir was set aside by the impugned order. Naturally the petitioner has a right to appeal before the District Revenue Officer, but he has not for some reason taken that course. The writ petition has been filed and is now pending for more than a year.

2.The entire issue started that one K.Perumalsamy. He was originally married to the third respondent, Peria Ramuthai @ Ramuthai. They had no children. K.Perumalsamy then married her younger sister Chinna Ramuthai. Four children were born to them. The petitioner is the son of one Yasodha and there are no specific details given about the marriage between K.Perumalsamy and Yasodha. The petitioner had originally obtained legal heirship certificate by including only his name. That legal heirship certificate was set aside by the Revenue Divisional Officer, who directed the Tahsildar to make a fresh enquiry. The second respondent/Tahsildar, Virudhunagar District conducted an enquiry by issuing notice not only to Peria Ramuthai, Chinna Ramuthai and Yasodha but also to the sisters of K.Perumalsamy and came to a definite conclusion that K.Perumalsamy had married only Peria Ramuthai and her sister Chinna



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Ramuthai and that there is no evidence of his marriage with Yasodha. An order came to be passed negating the claim of the petitioner herein to be recognized as the legal heir on 03.06.2019.

3.It is the grievance of the learned counsel for the third respondent that sensing the nature of the order, the petitioner appears to have moved over to another jurisdictional Tahsildar, at Chinnamoopanpatti and had applied for legal heirship certificate and obtained a legal heirship certificate being recognized as the legal heir of K.Perumalsamy. It is to be mentioned that K.Perumalsamy and everybody are residents of Pattamputhur in Virudhunagar District. This fact was complained by the third respondent herein to the Revenue Divisional officer, who found as the matter of fact that the petitioner had obtained a legal heirship certificate by suppressing material facts and had made two applications for recognizing him as the legal heir in two separate villages and therefore, set aside the said order.

4.These issues require an examination of facts. The writ Court under Article 226 of the Constitution of India can never adjudicate issues on facts and where evidence is required to establish the facts.



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5.Questioning the order of the Revenue District Officer/the first respondent, the petitioner has a further remedy to apply before the District Revenue Officer. It is only advisable that the petitioner moves over to the District Revenue Officer to seek necessary relief as this Court can never disentangle the complications created by K.Perumalsamy in the course of his life relating to his marriage and family.

6.The petitioner is granted liberty to file an appeal. The impugned order was passed on 04.02.2022. The writ petition had been filed on 11.02.2022 immediately within a week and is pending till this date. This interregnum period may not be considered while determining the period of limitation and the petitioner may file an appeal before the District Revenue Officer. As on date, the legal heirship certificate obtained by the petitioner stand cancelled. That aspect may be cleared in the course of order.



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7.The writ petition is dismissed with the above observation. No Costs.

Consequently, connected miscellaneous petition is closed.

16.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Mrn

To

1.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

2.The Tahsildar,
Virudhunagar.



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C.V.KARTHIKEYAN, J.

Mrn

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