



1

W.P.(MD)NO.12665 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.03.2023

PRONOUNCED ON : 10.05.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12665 of 2022 AND
W.M.P.(MD)Nos.8977 to 8979 of 2022

Vijaya

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Tahsildar,
Aruppukkottai Taluk,
Virudhunagar District.
3. The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.
4. Hariharan
5. Paulraj,
Deputy Tahsildar,
Aruppukkottai Taluk,
Virudhunagar District.
6. Purushothaman,
Revenue Inspector,
Kanjanaickanpatti Village,
Aruppukkottai Taluk, Virudhunagar District.



7. Balasubramanian,
Village Administrative Officer,
Kanjanaickanpatti Village,
Aruppukkottai Village,
Virudhunagar District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned legal heir certificate No.TN-7202111271045 dated 12.12.2021 issued by the second respondent and quash the same consequently direct the third respondent to issue legal heir certificate to the petitioner and the fourth respondent as legal representatives of her husband deceased Rajaraman.

For Petitioner : Mr.H.Arumugam

For R-1 to R-3 : Mr.B.Saravanan,
Additional Government Pleader.

For R-4 : Mrs.N.Krishnaveni,
Senior counsel,
for Mr.T.Palanisamy.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned Senior counsel appearing for the fourth respondent.



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2. The case of the petitioner is that the fourth respondent Hariharan was born to Thiru.Rajaram through his wife Sumithra Devi. The marriage between Rajaram and Sumithra Devi was dissolved vide decree dated 06.09.2008 in H.M.O.P.No.47 of 2008 on the file of the Sub Court, Aruppukkottai. The petitioner claims that she got married to the said Rajaram on 03.11.2008. Rajaram passed away on 02.06.2017 at Pudur Village. According to the petitioner, the fourth respondent and herself are the surviving legal heirs of the deceased Rajaram. However, it is her allegation that the fourth respondent had obtained legal heir certificate from the Tahsildar, Aruppukkottai as if he is the sole surviving legal heir and based on the certificate he is alienating the properties belonging to the deceased Rajaram. Hence, this writ petition has been filed to quash the legal heir certificate and for consequential relief restraining the fourth respondent from encumbering or dealing with the properties of the deceased Rajaram. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



3. I am not swayed by the submission made by the learned counsel appearing for the petitioner. As rightly pointed out by the learned Senior counsel appearing for the fourth respondent, the relief sought for by the petitioner cannot be granted, unless she establishes her legal status. Admittedly, civil suit is pending between the parties. The claim of the petitioner is that she was legally wedded to Rajaram. It is not as if the legal heir certificate issued by the Tahsildar, Aruppukkottai is containing a false recital. Even according to the petitioner, the fourth respondent was born to Thiru.Rajaram. Even if the case of the petitioner is accepted, still the right of Hariharan to deal with his half share in the property cannot be questioned.

4. I make it clear that the rights of the parties will abide by the outcome of the civil litigation. The petitioner can very well file an interlocutory application in the pending suit for restraining the fourth respondent herein from dealing with the properties of the deceased Rajaram. This writ petition is not maintainable. Granting liberty to the petitioner to move the jurisdictional civil Court for appropriate relief, this writ petition stands dismissed. I make it clear that I have not gone into the merits of the matter. All the contentions of the writ petitioner are left



open. No costs. Consequently, connected miscellaneous petitions are closed.

10.05.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

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6

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G.R.SWAMINATHAN,J.

PMU

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