



W.P(MD)No.16149 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16149 of 2020

and

W.M.P.(MD)Nos.13524 and 13528 of 2020

N.Nagamalai

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tashsildar,
Madurai North Taluk,
Madurai District.

4.S.Parameswari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 1st respondent vide Na.Ka.No. Thae4/3710/2020 dated 10.10.2020 and Quash the same and consequently direct the respondents 1 to 3 to issue legal heir certificate in petitioner's name.



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For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For Mr.C.Prithviraj

For Respondents : Mr.SRA.Ramachandran.
Addl. Government Pleader for R1 to R3.
Mr.Sricharan Rangarajan, Senior Counsel,
For Mr.S.Ramsundarvijayaraj for R4.

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1 to 3 and the learned senior counsel for the fourth respondent.

2.The question that arises for consideration is regarding issuance of legal heir certificate in respect of one Thiru.Selvam. Sevlam passed away on 22.04.2018. It is seen that the writ petitioner obtained a legal heir certificate as if he alone was the sole surviving legal heir of the deceased Selvam. Aggrieved by the said certificate, the fourth respondent herein preferred an appeal before the second respondent. She however did not succeed. Thereafter, she preferred a second revision before the first respondent. The first respondent by the impugned order set aside the legal heir certificate originally issued and directed the Tahsildar to issue a fresh legal heir certificate by including the name of the



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mother of the deceased and the wife of the deceased (fourth respondent herein).

Challenging the said order dated 10.10.2020 issued by the District Collector, Madurai, the present writ petition came to be filed.

3.It is not in dispute that as per Hindu Law of Succession, the mother, the spouse and children alone are figuring as class I legal heirs. The father is figuring only as class II legal heir. However, following judgment of the Hon'ble Full Bench reported in **(2022) 4 CTC 1 (P.Venkatachalam and Others Vs. Tahsildar, Namakkal and Others)**, the Government issued G.O.(Ms) No.478, dated 29.09.2022. The said Government Order states that legal heirship certificate of the deceased in case of married person will include the following members along with their living status:-

- “1. Father of Deceased*
- 2. Mother of Deceased*
- 3. Spouse of Deceased*
- 4. Son(s) of Deceased*
- 5. Daughter(s) of Deceased”*

4.I will not fault the first respondent for having passed the impugned order because during the relevant time, G.O.(Ms) No.478, dated 29.09.2022



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was not there. However, this Court is obliged to take note of the subsequent developments. Thus, even while sustaining the order impugned in this writ petition, I direct the third respondent to issue a fresh legal heir certificate. The certificate to be issued by the third respondent will contain the following names:-

- (1) S.Parameswari (wife)
- (2) N.Saraswathi (mother died on 20.08.2018)
- (3) N.Nagamalai (father)

Such certificate will be issued by the third respondent within a period of three weeks from the date of receipt of a copy of this order.

5.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 13.02.2023



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To:

WEB COPY

- 1.The Deputy Inspector General of Registration,
R1.The District Collector,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Madurai.
- 3.The Tashsildar,
Madurai North Taluk,
Madurai District.



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G.R.SWAMINATHAN, J.

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