



W.P(MD)No.10617 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10617 of 2015
and
M.P.(MD)No.1 of 2015

T.Poolammal

... Petitioner

Vs.

The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

... Respondent

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 records relating to the impugned order passed by the respondent in his proceedings Moo.Mu.Aa1/8217/2014 dated 18.09.2014 and quash the same and consequently directing the respondent to issue the legal heir certificate in favour of the petitioner for the death of her grandfather namely S.Sudalaimuthu .

For Petitioner : Mr.D.Selvanayagam

For Respondent : Mr.D.Gandhiraj,
Spl. Government Pleader.



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ORDER

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The petitioner seeks issuance of legal heir certificate in respect of her maternal grandfather namely, Sudalaimuthu. When her request was rejected by the Tahsildar, Tirunelveli Taluk on 10.10.2012, she filed W.P.(MD)No.1231 of 2013. The writ petition was allowed on 07.03.2014 in the following terms:-

2. The petitioner is an agricultural coolie. The petitioner's husband namely Thangaraj, S/o. Subbiah had died before 7 months and her grandfather namely Sudalaimuthu, S/o. Subban @ Narisubban had died on 04.12.1940 and her grandmother namely Petchi, W/o. Sudalaimuthu had died on 06.06.1978. The petitioner's mother namely Theivanaiammal, W/o. Subbiah also died on 10.09.2005. On 19.01.2011, the petitioner made a representation to the 1st respondent to issue a Legal Heir certificate of her grandfather namely Sudalaimuthu, in which, the 2nd respondent submitted his report before the 1st respondent on 31.03.2011. After getting the report from the 2nd respondent, the first respondent vide proceedings dated 26.04.2011, directed the petitioner to produce the death certificate of her grandmother Petchi, W/o.Sudalaimuthu. Immediately the



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petitioner applied for the death certificate of her grandmother to the 2nd respondent and the same was issued in favour of the petitioner by the 2nd respondent on 24.06.2011. Thereafter, the petitioner made a detail representation to the first respondent along with a copy of the death certificate of her grandmother. The petitioner has also made an application along with documents, to the 1st respondent on 27.06 2011. But there was no reply. Hence the petitioner has come forward with the present writ petition.

3. The first respondent has filed a counter stating that the writ petitioner has applied for the legal heir certificate of her grand parents of Sudalaimuthu and Petchi. They died on 04.12.1940 and 04.04.1975 respectively. The respondents were not in a position to get any correct information during the enquiry about the death of said Sudalaimuthu and Petchi. Hence, after conducting a detail enquiry, the first respondent found that there was no tangible evidence available in support of the claim of the petitioner. Therefore, the petitioner's request is rejected.

7. Considering the common order passed by this Court, in W.P.(MD)No.14956 of 2013 batch and also the submissions made by both sides, I am



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inclined to pass the following order: -

“The application for issuance of the legal heir certificate cannot be rejected on the ground that the application was made belatedly. Hence, the impugned order is liable to be quashed and accordingly, the impugned order is quashed. The petitioner is directed to give a fresh representation along with all necessary documents required by the respondents to conduct a detail enquiry for issuance of legal heir certificate of the petitioner's grand father and on production of such representation along with necessary documents, the respondents are directed to conduct enquiry possible.” and pass appropriate orders, as early as possible”

Pursuant thereto, the impugned order came to be passed calling upon the petitioner to move the jurisdictional Civil Court. Challenging the same, the present writ petition came to be filed.

2.The learned counsel for the petitioner relied on certain subsequent developments. He relied on the Hon'ble Full Bench decision reported in **2022 LiveLaw (Mad) 265 (P. Venkatachalam Vs. The Tahsildar, Kumarapalayam Taluk, Namakkal District)**. The Hon'ble Full Bench's decision was acted upon by the Government by issuing G.O.(Ms)No.478, Revenue Disaster Management, dated 29.09.2023. He



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points out that when legal heir certificate can be issued even for class II legal heirs, the authorities cannot deny issuing legal heir certificate in favour of the petitioner who is none other than the direct granddaughter of the deceased Sudalaimuthu.

3. Technically, the learned counsel for the petitioner is correct in his contention. At the same time, this Court cannot lose sight of the ground reality. Admittedly, the petitioner's grandfather passed away as early as 04.12.1940. The petitioner herself is now aged more than 75 years. In these circumstances, the revenue authority cannot be expected to undertake a roving enquiry.

4. However, the jurisdictional Civil Court can certainly grant relief. I, therefore, sustain the impugned order. The petitioner is given liberty to move the jurisdictional Civil Court for the relief of declaration that she is the grandchild of Late. Sudalaimuthu and that there is no other legal heir apart from her. If such a suit is filed, the same shall be numbered immediately and without any delay. Of course, the petitioner will have to comply with the usual formalities. She may have to give paper



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publication. Subject to fulfilment of all such formalities, the suit will be disposed of on merits and in accordance with law within a period of six months thereafter.

5.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

15.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note :
The Registry is directed to mark a copy of this order to learned Principal District Munsif, Tirunelveli.

To:-

The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

Copy to:-

The Principal District Munsif,
Tirunelveli.



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G.R.SWAMINATHAN, J.

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