



1

W.P.(MD)NO.13934 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13934 of 2015

B.Jeyalakshmi

... Petitioner

Vs.

The Tahsildar,
Maduri North Taluk,
Collectorate,
Madurai.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent dated 27.03.2015 and quash the same and consequently direct the respondent to issue legal heirship certificate in favour of the petitioner and petitioner's sons and daughter within a time limit as fixed by this Court.

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.S.Shanmugavel,
Additional Government Pleader.

* * *

**ORDER**

WEB COPY

Heard the learned counsel on either side.

2. The petitioner approached the respondent for issuance of legal heir certificate following the demise of her husband Balakrishnan on 03.03.2015. The respondent returned the application and relegated the petitioner to move the jurisdictional civil Court.

3. The ground on which the application was returned was that the deceased was twice married.

4. On this ground, the application cannot be mechanically returned. It is well settled that the children born through the first wife or the second wife are very much entitled to be called as legal heirs. It is only the second wife who may not have any legal status. But then, summary enquiry has to be undertaken by the Tahsildar. If there is a real dispute regarding the matrimonial status of the person, the same can be left open. There can be cases in which frivolous objection is raised that the deceased was married twice. In



such a case the objection has to be overruled and the legal heir certificate should be issued in favour of the legally wedded wife. Without conducting any such enquiry, the application has been returned. On this ground, the impugned order is set aside. The petitioner can submit a fresh application to the respondent. The respondent shall conduct enquiry and pass final order on merits and in accordance with law within a period of ten weeks thereafter. This writ petition stands allowed. I make it clear that I have not gone into the merits of the matter. No costs.

05.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

The Tahsildar,
Maduri North Taluk,
Collectorate,
Madurai.



WEB COPY



4

W.P.(MD)NO.13934 OF 2015

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.13934 of 2015

05.09.2023