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W.P.(MD)NO.9771 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9771 of 2015

P.Thirppathirajan

... Petitioner

Vs.

1. The Tahsildar,
Madurai South Taluk,
Madurai District.

2. The Revenue Inspector,
Avaniyapuram Revenue Circle,
Madurai South Taluk,
Madurai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in O.M. No.3426/2015/Aa2 dated 23.05.2015 and quash the same and consequently direct the first respondent to issue a legal heir certificate for the deceased K.Pandi including all the legal heirs born through deceased first wife and the second wife including the second wife.

For Petitioner : Mr.J.Alaguram Jothi

For R-1 & R-2 : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *



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ORDER

Heard the learned counsel on either side.

2. One Pandi passed away on 27.04.2015. The petitioner who claims to be the son of Pandi applied for issuance of legal heir certificate. The jurisdictional Tahsildar came to the conclusion that since the said Pandi was twice married, the petitioner's request cannot be complied with.

3. Such an approach is impermissible in law. It has been held time and again that it is the duty of the jurisdictional Tahsildar to conduct an enquiry and issue certificate in favour of the petitioner. While the status of the spouse can be doubted, the status of the children cannot be denied whether the children was born through the first wife or the second wife. If the jurisdictional Tahsildar, during the enquiry is satisfied that the applicant was born to the deceased, then the legal heir certificate should be issued. It cannot be denied merely on the ground that the deceased was twice married.



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4. In this view of the matter, the order impugned in this writ petition is set aside. The first respondent shall hold an enquiry. Notice shall be issued to all the interest person. If the first respondent is satisfied, the legal heir certificate as sought for shall be granted. The entire exercise shall be completed within a period of sixteen weeks from the date of receipt of a copy of this order. This writ petition stands allowed on these terms. No costs.

28.08.2023

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

PMU

To:

1. The Tahsildar,
Madurai South Taluk,
Madurai District.
2. The Revenue Inspector,
Avaniyapuram Revenue Circle,
Madurai South Taluk,
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G.R.SWAMINATHAN,J.

PMU

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