



WP(MD)No.22405 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.10.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.22405 of 2021

and

W.M.P.(MD)No.18954 of 2021

Vijayalakshmi

...Petitioner

/Vs./

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

3.Devi

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARIFIED MANDAMUS to call for the records relating to the impugned order passed by the 2nd respondent in the Appl.No.TN-720210921991 dated 12.10.2021, and quash the same as illegal and consequently direct the Respondents to issue legal heir certificate in favour of the petitioner.



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WP(MD)No.22405 of 2021

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.A.K.Manikkam (R1 & R2)

Special Government Pleader

Mr.S.Sivathilakar (R3)

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent dated 12.10.2021 and for a consequential direction to the second respondent to issue legal heirship certificate in favour of the petitioner.

2. The case of the petitioner is that she was married to late Jeyabala Murugan on 06.07.1994. According to the petitioner, there was some misunderstanding between the petitioner and her husband and hence, she was compelled to live in her parents' home. Thereafter, the husband of the petitioner developed a relationship with the third respondent and continued to live with her. It is further stated by the petitioner that the petitioner had initiated a maintenance case against her husband in M.C.No.21 of 2008 before the Judicial Magistrate No.I, Kuzhithurai, and an order was also passed in this case by fixing maintenance amount as Rs.1,000/- per month. Subsequently, it was also enhanced to Rs.1,250/-. The petitioner aggrieved by the same, filed a criminal



WP(MD)No.22405 of 2021

revision before the Principal Sessions Court and the maintenance was further enhanced to Rs.2,500/-.

3. The husband of the petitioner died on 11.06.2020. The petitioner made an online application before the second respondent requesting for legal heirship certificate. However, the second respondent through the impugned order dated 24.10.2021 rejected the application submitted by the petitioner on the ground that the name of the third respondent has been incorporated in the death certificate and the petitioner's name is not found in the death certificate. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.K.P.Narayanakumar, learned counsel for the petitioner, Mr.A.K.Manikkam, learned Special Government Pleader for the respondents 1 and 2 and Mr.S.Sivathilakar, learned counsel for the third respondent.

5. The short issue that arises for consideration is as to whether the petitioner is entitled to get the legal heirship certificate from the second respondent by virtue of the rival claim made by the third respondent.



WP(MD)No.22405 of 2021

6. The only issue that has to be decided by the second respondent is as to whether the third respondent had married late Jeyabala Murugan during the subsistence of the marriage between the petitioner and her husband or the marriage between the petitioner and her husband has been dissolved and thereafter, the third respondent had married late Jeyabala Murugan. Since the late Jeyabala Murugan was living with the third respondent, in the death certificate, only the name of the third respondent has been entered. This by itself is not a ground to deny the issuance of legal heirship certificate in favour of the petitioner. The second respondent ought to have conducted an enquiry and ascertained as to who is the legally wedded wife of late Jeyabala Murugan.

7. In view of the above discussion, the impugned order passed by the second respondent in Appl.No.TN-720210921991 dated 12.10.2021 is hereby quashed. The matter is remanded back to the file of the second respondent. The second respondent shall conduct an enquiry and ascertain who is the legally wedded wife of late Jeyabala Murugan and issue legal heirship certificate in her favour. This exercise shall be completed by the second respondent within a period of four weeks from the date of receipt of a copy of this order.



WP(MD)No.22405 of 2021

8. This writ petition is allowed in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

18.10.2023

NCC : Yes/No
Internet :Yes/No
Index :Yes/No
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TO:-

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.



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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.22405 of 2021

Dated:
18.10.2023