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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.07.2024

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.19982 of 2024
& WMP.Nos.21871 and 21874 of 2024

1.Mrs.Sivakami

2.R.Raghavendran

... Petitioners

Vs

1.The District Collector,
District Collector Office,
Salem – 636 001

2.The Tahsildar
Salem North, Manakkadu,
Salem – 636 007

3.Mr.Meyappan

4.The Revenue Divisional Officer,
Salem District.
(R4 is suo moto impleaded vide
this order dated 23.07.2024)

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in relating to the impugned legal heirs certificate No.TN-720210212757 dated 04.03.2021 issued by the 2nd respondent in favour of the 3rd



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respondent/Meyappan and quash the same as illegal and consequently direct the 2nd respondent/Tahsildar to include the petitioners and Mr.Sivaram in necessary revenue records in the description property mentioned in affidavit.

For Petitioners : Mr.R.Venkatesulu

For Respondents : Mr.R.Neelakandan (R1, R2 and R4)
Additional Advocate General
assisted by
Mr.U.Baranidharan
Additional Government Pleader

ORDER

Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for R1 and R2 and is represented by Mr.R.Neelakandan, learned Additional Advocate General. They are armed with instructions to enable a final disposal of this Writ Petition, even at the stage of admission. No notice is thought necessary to R3 at this juncture, since his interests have been addressed by virtue of the directions issued in conclusion of this order.

2. The petitioners are the mother and brother of one Suganya, who had been married to R3 on 18.11.2004. The petitioners' father/husband, one Rajendran is, during his life time, stated to have gifted a portion of certain lands to the said Suganya by way of Settlement Deed dated 03.09.2009. According to the petitioners, the said Suganya had been tortured by R3 during her life time



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and ultimately committed suicide on account of the mental torture by R3 on 05.01.2021.

3. The petitioners state that a police complaint has been made and an FIR lodged under Section 174 of the Code of Criminal Procedure in Crime No.12 of 2021. A complaint has also stated to have been made before National Commission for Women as against R3.

4. That apart, the first petitioner has also filed a Civil Suit in O.S.No.486 of 2023 on the file of Additional District Judge II, Salem for partition of the property standing in the name of Suganya. The petitioners state that R3 is attempting to grab and deal with the properties dealt with under the Settlement Deed using the modality of the legal heirship certificate issued by R2 on 04.03.2021, wherein, his name is reflected as the legal heir of Suganya.

5. The petitioners have challenged the legal heirship certificate dated 04.03.2021 in light of the aforesaid facts. It is unknown either as to whether any notice was issued to other relatives of Suganya or any enquiry caused by the Tahsildar/R2, prior to the issuance of impugned legal heirship certificate.

6. One thing is clear. In light of the facts as set out in the affidavit, which are to be looked into by the authorities, there must be an enquiry caused and the legal heirship certificate re-visited in order to ascertain the truth, if any, in the assertions now made. Since this would involve marshalling and assimilation of



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various facts, it would not be appropriate for the writ Court to conduct this exercise.

7. G.O.Ms.No.478 Revenue & Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022 provides in Clause 7 of Annexure thereof, for an appellate remedy as against the issuance or rejection of the application for legal heirship certificate, though within a time period of one year from the date of certificate, which in this case has long passed.

8. The petitioners would submit that they had come to know of the certificate only recently. This Court is persuaded to accept their explanation for the delay, since they would have nothing to gain by delaying the matter. Hence, in order to ensure that there is a finality to the proceedings and as the relevant facts are to be looked into in an appropriate manner, the petitioners are relegated to the appellate remedy as aforesaid.

9. Appeal is to be filed before the Revenue Divisional Officer, Salem, who has not been arrayed as a respondent. Hence, Revenue Divisional Officer, Salem District is impleaded, suo motu, as R4 in this Writ Petition and Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for the newly impleaded R4 as well.



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10. In light of the torturous sequence of events as narrated in the writ affidavit, it would be best that the impugned legal heirship certificate is not acted upon till due enquiry is caused and all parties heard.

11. The petitioners have filed a representation before the District Collector on 10.04.2024, which shall be treated as appeal provided for under Clause 7 of the Annexure to the aforesaid G.O. Let the petitioners appear before R4 on Wednesday, the 31st July, 2024 at 12.00 noon without awaiting any further notice in this regard accompanied by a copy of this order and a copy of representation/appeal dated 10.04.2024. The availability of R4 to grant audience to the petitioners has been ascertained.

12. R4 shall grant audience to the petitioners and shall hear them on preliminary basis, issuing notice to the petitioners, R3 as well as to any others deemed necessary for adjudication of the appeal thereafter fixing the matter for detailed enquiry. Thereafter, R4 shall hear all parties, consider relevant documents and pass orders on the appeal in accordance with law and all extant Rules and Regulations, within a period of three (3) months from 31.07.2023.

13. For a period of three (3) months or till orders are passed on the appeal, whichever is earlier and subject to such orders, the operation of impugned legal heirship certificate dated 04.03.2021 is stayed.



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Dr.ANITA SUMANTH,J.

WEB COPY 14. This Writ Petition is disposed in the aforesaid terms. No costs.

Connected Miscellaneous are closed.

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Index : Yes / No

Speaking order

Neutral citations: Yes

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To

- 1.The District Collector,
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