



W.P.No.25689 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

Writ Petition No.25689 of 2024  
and  
W.M.P.Nos.28070 and 28071 of 2024

A. Mahadevan .. Petitioner

Vs.

1. The District Collector,  
Office of Collectorate,  
Dharmapuri District.
2. The Revenue Inspector,  
Dharmapuri,  
Dharmapuri District.
3. The Thasildar,  
Pennagaram Taluk,  
Dharmapuri District.

4. Vijaya Sarathi .. Respondents

[R5 suo motu impleaded vide  
order dated 02.04.2018]

Prayer: Writ Petition under Article 226 of the Constitution of India  
praying for a writ of certiorari calling for the records of the 2nd  
respondent in proceedings in Na.Ka.No.3646/2024/A7 dated  
26.07.2024 and quash the same.



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For the Petitioners : Mr.M.Selvam  
For the Respondents : Mr.R.Neelakandan,  
Additional Advocate General  
assisted by  
Mr.U.Baranidharan,  
Additional Government Pleader  
for R1 to R3

### ORDER

The petitioner has filed this Writ Petition seeking for quashment of proceedings of the second respondent in Na.Ka.No.3646/2024/A7 dated 26.07.2024.

2. The brief facts of the case as per the affidavit enclosed to this Writ Petition are that on 03.08.2019, petitioner's brother and his family members went to Pennagaram from Adhiyamankottai in a car and enroute they met with an accident. In the said accident, the petitioner's brother Thirumurthly, his wife Latha and his son Nithin Abinow died and their daughter Vetharithika alone survived. While being so, the maternal grandfather of the petitioner's niece namely Nagarajan had filed Guardian O.P.No.58 of 2019 before the Principal District Judge, Dharmapuri. Petitioner's mother had also filed Guardian

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O.P.No.20 of 2020 before the Principal District Judge, Dharmapuri and the same was subsequently withdrawn. O.P.No.58 of 2019 was decreed on 07.02.2024 by the Principal District Judge, Dharmapuri. The son of Nagarajan namely Vijaya Sarathi/fourth respondent had filed an Appeal before the 2<sup>nd</sup> respondent challenging the legal heir certificate of the deceased Thirumurthy and Latha issued by the third respondent and subsequently, the second respondent had issued a show cause notice in Na.Ka.NO.3646/2024/A7 dated 26.07.2024 and aggrieved by the same, petitioner has filed this Writ Petition seeking for suitable relief.

3. Learned counsel for the petitioner submitted that the second respondent without considering that fact that third respondent had issued the legal heir certificate to the class I legal heir of the deceased as per Schedule under Section 8 and Section 15 of the Hindu Succession Act and had erroneously taken up the Appeal filed by the fourth respondent and issued show cause notice on the petition filed by the fourth respondent which is untenable and unsustainable in law and the same is liable to be quashed.



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4. Learned counsel for the respondents has denied the allegations made by the petitioner and raised opposition for quashment of proceedings in Na.Ka.No.3646/2024/A7 dated 26.07.2024 passed by the second respondent and prayed for dismissal of the Writ Petition.

5. Heard both sides and perused the records.

6. The 3<sup>rd</sup> respondent had issued legal heir certificate, which is put in issue in the appeal in which a show cause notice has been issued by the 2<sup>nd</sup> respondent, which is sought to be quashed. It is settled position of law that normally the courts would abstain itself from quashing the show cause notice and it is for the petitioner to place his explanation to the show cause notice and it cannot be quashed at the anvil.

7. However, considering the fact that issue relates to class I legal heir certificate and the petitioner is the brother of the deceased and the class I legal heir certificate is issued with respect to the daughter



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of the deceased as the maternal grandfather had been appointed as the guardian of the minor in O.P.No.58/2019, this Court without going into the merits of the contention advanced by the learned counsel on either side, directs the petitioner to work out the remedy before the appropriate forum in the manner known to law. It is equally made clear that the 2<sup>nd</sup> respondent shall take into consideration the order passed in O.P.No.58/2019 by the Principal District Judge, Dharmapuri on 07.02.2021, before passing any further orders on the appeal pursuant to the show cause notice.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No  
Neutral Citation : Yes/No  
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**M. DHANDAPANI, J.**

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