



WEB COPY



W.P.No.29089 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.29089 of 2024
and
W.M.P.No.31744 of 2024

N.Subramanian

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Officer of Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.

2.The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

3.Sivakumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records pertaining to the impugned summons in Na.Ka.No.2282/2024/A2 dated 18.09.2024 issue by the 2nd respondent and to quash the same.

For Petitioner : Mr.Senthil

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by



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Mr.U.Baranidharan
Additional Government Pleader
[R1 & R2]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the entire records pertaining to the impugned summons in Na.Ka.No.2282/2024/A2 dated 18.09.2024 issue by the 2nd respondent and to quash the same.

2. Mr.U.Baranidharan, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 and 2. In view of the consent expressed by both the parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. Since no adverse order has been passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.

4. The case of the petitioner is that, father of the petitioner is Nallusamy @ Nalliya Gounder and the mother of the petitioner is



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Sampoornam. They had two children, namely the petitioner herein and one Nallammal. The said Nallammal pre-deceased her father, leaving her son Gopinath as her legal heir. Whiles, father of the petitioner died on 17.10.2013 and on 10.09.2014, the 2nd respondent had issued legal heirship certificate certifying the petitioner, his mother and the said Gopinath as legal heirs of the said Nallusamy @ Nalliya Gounder. On 26.05.2023, the 3rd respondent had submitted an application/appeal to the 1st respondent for cancellation of the above legal heirship certificate issued by the 2nd respondent and seeks to issue new legal heirship certificate by including his name and his mother. Thereafter, the petitioner had sent a detailed explanation to the 1st respondent stating that the 3rd respondent and his mother, namely Lakshmi are in no way connected to the petitioner or his father, and therefore, he requested the 1st respondent to reject the said application/appeal filed by the 3rd respondent. Without considering the same, the 2nd respondent had issued the impugned summon dated 18.09.2024 directing the petitioner, his mother and the said Gopinath to appear before the office of the 2nd respondent on 24.09.2024. Aggrieved by the same, the petitioner has filed the above writ petition before this court.



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5. Learned counsel for the petitioner submitted that, as per G.O.(Ms).No.478, Revenue and Disaster Management, Revenue Administration Wing, RA-3(2) Section dated 29.09.2022, if any appeal is filed arising out of any dispute with regard to issuance of legal heirship certificate, the appellate authority has to issue summon. However, in the present case, the 2nd respondent has issued the summon, even though the 2nd respondent is incompetent to issue summon, which is *per se* unsustainable. Hence, he prays for quashment of the impugned summon.

6. Learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the 3rd respondent has filed an appeal before the 1st respondent, who in turn, authorised the 2nd respondent to conduct enquiry and forward a report to the 1st respondent, enabling him to pass appropriate orders in the said appeal. Further, he submitted that though the 2nd respondent has conducted the enquiry, however the 2nd respondent is not going to pass any final orders in the appeal and the 1st respondent will pass appropriate orders as expeditiously as possible.



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7. It is appears that the petitioner had appeared before the 2nd respondent and enquiry has been conducted by the 2nd respondent. In view of the same, this Court, without interfering with the impugned proceedings, directs the petitioner to appear before the 1st respondent by way of representation, within a period of one (1) week from the date of receipt of a copy of this order and thereafter, the 1st respondent is directed to hear both the petitioner as well as the 3rd respondent and pass appropriate orders, within a period of four (4) weeks.

8. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

30.09.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

1. The Revenue Divisional Officer,
Officer of Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.



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M.DHANDAPANI, J.

sp

2.The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

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