



Review Application No. 251 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

C O R A M

THE HONOURABLE Mr.JUSTICE **S .S. SUNDAR**
and
THE HONOURABLE Mr.JUSTICE **C.V.KARTHIKEYAN**

Review Application No.251 of 2024

in

W.A.No.2884 of 2019

Dr.S.Appuswamy

...Applicant

-Vs-

1. The Revenue Divisional Officer,
Tirupattur, Vellore District.

2. The Tahsildar,
Tirupattur, Vellore District.

3. The Tahsildar,
Tiruppur, Coimbatore District.

4. R.Palaniyapan

.. Respondents

Prayer: Review Application has been filed under Order 47 Rule 1 of C.P.C read with under Section 114 of C.P.C against the order dated 28.08.2019 passed by this Court made in W.A.No.2884 of 2019.



WEB COPY



Review Application No. 251 of 2024

For petitioner ... Mr.K.Rajendra Prasad

ORDER

This review application is directed against the order dated 28.08.2019 in Writ Appeal No.2884 of 2019, dismissing the appeal filed by the review applicant against the order of the learned single Judge, dated 20.08.2018 in W.P.No.29641 of 2003, disposing of the writ petition filed by the 4th respondent herein.

2. The facts that are necessary for disposal of the review application are as follows:

The writ petitioner, Palaniappan (the 4th respondent herein) obtained a Legal Heirship Certificate from the Tahsildar, Tirupattur, erstwhile North Arcot District on the ground that he is one of the legal heirs of one Miss.Nalini. It is the case of the writ petitioner that Miss.Nalini was a spinster and she never married till her death, i.e.



Review Application No. 251 of 2024

01.04.2001. It is contended by the petitioner that after the death of Nalini, he and his another sister, Subathra are the legal heirs of the said Nalini. Therefore, the Legal Heirship certificate was issued on 27.11.2002.

3. In the meanwhile, the review applicant obtained a Legal Heirship Certificate from the Tahsildar, Tiruppur by showing himself as the husband of Dr.P.Nalini. Since the legal heirship certificate issued to the petitioner was cancelled without notice being issued to him, the writ petition was filed by him to quash the proceedings of the respondents 1 and 4 therein dated 10.09.2003 and 20.04.2001 respectively.

4. The learned single Judge of this Court, by order dated 20.08.2018, while disposing of the writ petition, found that the dispute between the writ petitioner and the review applicant should be resolved only by approaching the Civil Court and it was observed as follows:



WEB COPY



Review Application No. 251 of 2024

“24. The only course of action, which would have been available to the first respondent was that, he could have very well directed the parties to approach the competent Civil Court to establish their right. Instead of doing the right thing, the first respondent have not only entertained the appeal, but also gave its finding by cancelling the legal heir certificate issued in favour of the writ petitioner, that too without hearing him. Therefore this Court has no hesitation to hold that, for all these reasons, the impugned order passed by the first respondent would not be sustainable.

“25. In so far as the challenge made against the legal heir certificate issued by the Tahsildar, Tirupur in favour of the third respondent is concerned, the said certificate was issued without verifying the fact that the deceased Nalini had one brother and one sister and also without verifying the fact that, whether the claim made by the third respondent that he married the said Nalini and whether the said marriage has been solemnized in the eye of law. Without verifying these aspects,



Review Application No. 251 of 2024

since the said certificate seems to have been given by the Tahsildar, Tirupur, this Court holds that, such certificate need not be acted upon and therefore the same shall be directed to be kept in abeyance.

26. In the result, the following order is passed.

(i) The impugned order passed by the first respondent, in Mu.Mu.A2/6084/2003, dated 10.09.2003 is quashed.

(ii) Resultantly, the legal heir certificate issued by the Tahsildar, Tirupattur in favour of the petitioner since get revived, however, the same shall not be acted upon and that shall be kept in abeyance.

(iii) Equally the legal heir certificate issued in the year 2001 by the Tahsildar, Tirupur in favour of the third respondent shall also be kept in abeyance.

(iv) The parties are at liberty to approach the competent Civil Court to establish the right on the claim of the legal heirship of Nalini and once such a decision comes from the Court by way of declaratory relief, the respective parties shall act accordingly.



Review Application No. 251 of 2024

WEB COPY

27. With these observations and orders, this writ petition is disposed of.”

Aggrieved by the same, the review applicant filed an appeal in W.A.No.2884 of 2019. The appeal was also disposed of, confirming the order in writ petition with an observation that the parties can approach concerned authority on the basis of decree in Civil Court. with a similar direction. The learned single Judge as well as the Division Bench of this Court in writ appeal, have opined that the Legal Heirship Certificate issued by the Tahsildar, Tiruppattur in favour of the 4th respondent herein and the Legal Heirship Certificate was issued by the Tahsildar, Tiruppur in favour of the review applicant in the year 2001 should be kept in abeyance till the civil Court's verdict. The disposal is in the nature of giving liberty to the parties to get their rights declared by approaching the Civil Court, which is alone competent to ultimately decide and declare the rights of parties.



Review Application No. 251 of 2024

WEB COPY

5. The learned counsel for the review applicant is unable to produce any positive documents or clinching document to prove his status as the husband of the deceased Nalini except a few photographs.

6. The fact that the 4th respondent is the brother of Miss.Nalini, is not in dispute. Except a few photographs and the so called reputation of the review applicant as a Doctor living with Miss.Nalini, this Court is unable to conclude or accept the claim of the review applicant. In such circumstances, this Court finds no error apparent on the face of the record. It is also to be noted that the scope of review is limited. Unless there is error apparent on the face of the record, this Court cannot entertain a review merely because a different view is possible. The Hon'ble Supreme Court has repeatedly held that a review is not an appeal in disguise. Therefore, the order of this Court cannot be reviewed on the grounds which can be challenged by way of a further



Review Application No. 251 of 2024

appeal. There is no patent error in the judgment passed by this Court in

W.A.No.2884 of 2019 dated 28.08.2019. Therefore, this review

application is dismissed. No costs.

(S.S.S.R., J.) (C.V.K., J.)

03.09.2024

srn



WEB COPY



Review Application No. 251 of 2024

S .S. SUNDAR.J
and
C.V.KARTHIKEYAN.J

srn

Review Application No.251 of 2024
in W.A.No.2884 of 2019

03.09.2024