



W.P.No.34686 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34686 of 2023

Mrs.M.M.Sajitha Fathima

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. By the Secretary to the Government,
Department of Revenue and Disaster Management,
Chennai.
2. The Tahsildar,
Sholinganallur Taluk, Chennai.
3. The Village Administrative Officer,
Sholinganallur Taluk, Chennai.
4. The Revenue Inspector,
Sholinganallur Taluk, Chennai.
5. The Revenue Divisional Officer,
Chennai South, Guindy,
Chennai – 600 032.
6. The District Revenue Officer,
62, Rajaji Salai,
Chennai Collectorate,
Chennai – 600 001.
7. The District Collector,
Fourth Floor, M.Singaravelar Maaligai,
62, Rajaji Salai,



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Chennai Collectorate, Chennai – 600 001.

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8. Mr.Mohamed Ali

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorified Mandamus, calling for the records in the order dated 25.10.2023 bearing reference Se.Mu.Aa.U6/29297/2023 passed by the 6th respondent, quash the same and consequently direct the 2nd respondent to issue the legal heirship certificate based on the application filed by the petitioner on 02.11.2022.

For Petitioner : Mr.Thriyambak J.Kannan
For Respondent : Mr.U.Baranidharan
Additional Government Pleader
[R1 to R7]
Mr.I.Abdul Basith [R8]

ORDER

The order dated 25.10.2023 issued by the District Revenue Officer, Chennai declining the request of the petitioner to grant the legal heirship certificate is under challenge in the present writ proceedings.

2. The deceased Mr.Mohamed Meeran, the father of the writ petitioner had three wives admittedly. Since the petitioner could not able to establish that the second wife of the deceased Mohamed Meeran was divorced, the authorities relegate the parties to approach the competent civil court of law.



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3. In this context, the learned Additional Government Pleader would submit that when the deceased Mohamed Meeran admittedly had three wives and after the death of the first wife viz., Ayesha Meeran, he married his second wife viz., Nadhira Banu and subsequently married another women viz., Najima Meeran. The petitioner, who is the daughter of the first wife could not able to establish that the deceased Mohamed Meeran divorced his second wife viz., Nadhira Banu. In view of the fact that the divorce between the deceased and the second wife was not established, the authority has decided that there is dispute exists in the family and therefore, relegate the parties to approach the civil court of law.

4. The learned counsel for the petitioner would submit that the facts are not disputed. The first wife died even before the solemnization of marriage of the second wife by the deceased. The second wife was divorced through triple talaq and thereafter, the deceased married the third wife viz., Najima Meeran. Since the divorce has not been disputed by any other family members of the deceased Mohamed Meeran, there is no impediment for the Revenue Authorities to issue legal heirship certificate.



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5. The petitioner earlier filed Writ petition in W.P.No.17226 of 2023, where final order has been passed on 09.06.2023 directing the petitioner to approach the competent civil court of law. Challenging the said order intra-court appeal has been filed in W.A.No.2196 of 2023. The Division Bench disposed of the writ appeal on 23.08.2023 to the following effect:

“3. A civil suit is already pending with regard to the settlement deed. Various persons are not parties to the writ petition and this appeal. No doubt, the appellant and/or any other person claiming to be the legal heir of the deceased can institute a civil suit and raise all points available therein and can also invoke the provisions of the Indian Succession Act, 1925, as may be permissible under law. The observations of the learned Single Judge are to that effect only.

4. As the revision is pending, the authority, where the revision is pending, may decide the same on merits and in accordance with law, after hearing all the parties concerned, expeditiously.”

6. Learned counsel for the petitioner would submit that the Division Bench granted liberty to the authorities to dispose of the revision petition. Therefore, there is no impediment for filing the present writ



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petition since the revision petition was rejected by the competent authorities.

7. The learned Additional Government Pleader would draw the attention of this Court that there are other disputed facts exist and those disputed facts are not considered by the Revenue Authorities. Since the averments in the impugned order reveals that the disputed facts exist regarding the legal heirs, hence, such issues are to be adjudicated by approaching the competent civil court of law.

8. Even doubt regarding the civil rights or persons, which is preferable to relegate the parties to approach the civil court of law.

9. The High Court in exercise of the power of judicial review under Article 226 of the Constitution cannot grant the relief in the event of cloud in respect of such relationships or the documents, which all are necessary for the purpose of giving a clear finding. In such circumstances, trial nature proceedings are paramount and the parties have to approach the civil court.



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10. In the present case, admittedly the deceased father of the writ petitioner had three wives and the documents relating divorce of the second wife of the deceased was not made available before the Revenue Authorities. Though certain letters are produced, such letters cannot be adjudicated by the Revenue Authorities since the validity of such letters are to be decided through trial nature proceedings. At the outset, the Revenue Authorities have no jurisdiction to decide the disputes of civil nature, which all are to be proved by approaching the Civil Court of law.

11. Thus, the writ petitioner is at liberty to approach the competent civil court of law for the purpose of establishing their right in the manner known to law.

12. With this liberty, this writ petition is disposed of. No costs.

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Index : Yes
Speaking order
Neutral Citation : Yes
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S.M.SUBRAMANIAM, J.

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