



W.P.(MD)No.7458 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.03.2024

Pronounced on : 27.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.7458 of 2021
and
W.M.P.(MD)Nos.5632 and 5633 of 2021

Chinnamani

... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
School Education Department,
St.George Fort,
Chennai.
2. The District Education Officer,
Manapparai,
Tiruchirappalli.
3. The Revenue Divisional Officer,
Srirangam,
Tiruchirappalli.
4. The Tahsildhar,
Manapparai,
Tiruchirappalli.
5. The Treasury Officer,
District Treasury,
Tiruchirappalli.

... Respondents



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Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the third respondent Na.Ka.No.34556/2018 dated 15.10.2018 and consequential order of the fifth respondent Mu.Moo.No.153/2020/B6 dated 13.01.2020 and quash the same illegal.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The Writ Petition is directed against the order dated 15.10.2018 passed by the third respondent in Na.Ka.No.34556/2018 and the consequential order dated 13.01.2020 passed by the fifth respondent in Mu.Moo.No.153/2020/B6.

2. The case of the writ petitioner is that the writ petitioner's husband Nallusamy, after working as a teacher, retired as a Headmaster on superannuation in Panchayat Union Elementary School, T.Tulukkampatti, Manapparai Taluk on 30.11.1997, that the writ petitioner's husband was sanctioned pension in Pension Paper No.C128654/EDP, that the writ petitioner's husband nominated the writ petitioner as a nominee in his



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pension papers, that the writ petitioner's husband died on 09.05.2004 leaving behind the writ petitioner and their daughters Renuga and Sathiya and a son Senthil Kumar, that the writ petitioner had applied for legal heir certificate before the fourth respondent and after conducting enquiry, legal heir certificate dated 12.10.2012 came to be issued, that thereafter the writ petitioner has been receiving pension from the fifth respondent till June-2019 and that the writ petitioner came to know that the third respondent has passed the impugned order dated 15.10.2018 cancelling the legal heir certificate dated 12.10.2012 without any notice to the writ petitioner and without any sort of enquiry.

3. It is the further case of the writ petitioner that the writ petitioner came to know that one Rengasubramanian claiming to be the brother son of the writ petitioner's husband submitted a petition to the third respondent and the same was forwarded to the fourth respondent for enquiry, that the fourth respondent submitted a report stating that the said Nallusamy was married to one Tamilarasi on 10.09.1972, that the said Tamilarasi died after one or two years and there was no issue for the said Tamilarasi and Nallusamy, that the said Nallusamy was not remarried, that one Pappathiammal, who is the mother of the writ petitioner, was residing near



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the house of the said Nallusamy, that the writ petitioner forged the family card of the said Nallusamy and obtained legal heir certificate and that on the basis of the said report, the third respondent has passed the impugned order cancelling the legal heir certificate.

4. The learned counsel appearing for the writ petitioner would submit that the said Nallusamy was living with the writ petitioner and gave birth to three children, that the said Nallusamy has nominated the writ petitioner as a nominee in his pension paper and that in pursuance of the same, the writ petitioner has been receiving pension continuously till June-2019.

5. The learned counsel appearing for the writ petitioner would further submit that the said Rengasubramanian along with some others have filed a suit against the writ petitioner and others in O.S.No.90 of 2013 claiming that the plaintiffs and the defendants 1 to 7 are the Class 2 legal heirs of the deceased Nallusamy as per the Hindu Succession Act and for partition and for allotment of 1/3 share and for permanent injunction and also to declare that the sale deed dated 08.02.2013 executed in favour



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of the 12th defendant by defendants 8 to 11 as the legal heirs of the deceased Nallusamy is null and void, that the writ petitioner is the 8th defendant in the above suit and that after full trial, the learned Subordinate Judge, by holding that the writ petitioner/8th defendant is the wife of the deceased Nallusamy and as such, she is the legal heir and hence, the plaintiffs and the defendants 1 to 7 cannot be considered as legal heirs of the deceased Nallusamy, dismissed the suit vide judgment and decree dated 29.11.2023. The learned counsel appearing for the writ petitioner has also produced the copy of the judgment passed in O.S.No.90 of 2013.

6. The learned Government Advocate appearing for the respondents would submit that the writ petitioner has preferred an appeal challenging the order passed by the third respondent before the District Collector and the District Collector, after hearing the appeal, has passed an order dated 27.12.2021 dismissing the appeal. But it is pertinent to note that the appeal was heard and disposed of during the pendency of the present writ petition.

7. The main contention of the writ petitioner is that the third respondent, after the receipt of the complaint given by the said



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Rengasubramanian, without issuing any notice and without conducting any enquiry, by only getting a report from the fourth respondent, has passed the impugned order cancelling the legal heir certificate, which was granted 7 years prior to the impugned order. It is not the case of the respondents 1 to 4 that notice was sent to the writ petitioner and the same was served on the writ petitioner or that notice was refused to be received by the writ petitioner. The respondents 1 to 4 have not produced any iota of materials to show that notice was sent to the writ petitioner and enquiry was conducted before passing the impugned order.

8. As rightly contended by the learned counsel appearing for the writ petitioner, the third respondent, without following the principles of natural justice, has passed the impugned order setting aside the legal heir certificate granted on 12.10.2012 and on that ground alone, the impugned order is liable to be set aside.

9. No doubt, as rightly contended by the learned counsel appearing for the writ petitioner, the competent civil Court has now declared that the writ petitioner is the legal heir of the deceased Nallusamy. It is pertinent to



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note that the said judgment in O.S.No.90 of 2013 came to be passed on 29.11.2023. It is not known as to whether any appeal was filed and the same is pending. Since the writ petitioner has not impleaded the said Rengasubramanian on whose complaint the impugned order came to be passed, this Court is not in a position to know about the pendency of the appeal.

10. Considering the above, this Court is of the view that the third respondent is to be directed to conduct enquiry by giving notice to the writ petitioner as well as the other interested parties and to pass orders in accordance with law. Since the fifth respondent has passed the consequential order dated 13.01.2020 only on the basis of the impugned order passed by the third respondent dated 15.10.2018 and that since the impugned order is set aside, the consequential order passed by the fifth respondent dated 13.01.2020 is liable to be set aside consequently.

11. In the result, this Writ Petition is allowed and the impugned order dated 15.10.2018 passed by the third respondent in Na.Ka.No. 34556/2018 and the consequential order dated 13.01.2020 passed by the



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fifth respondent in Mu.Moo.No.153/2020/B6 are hereby set aside. The third respondent is directed to issue notice to the writ petitioner as well as the other interested parties and conduct enquiry and to pass orders in accordance with law within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

27.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Secretary,
Government of Tamil Nadu,
School Education Department,
St.George Fort,
Chennai.
2. The District Education Officer,
Manapparai,
Tiruchirappalli.
3. The Revenue Divisional Officer,
Srirangam,
Tiruchirappalli.
4. The Tahsildhar,
Manapparai,
Tiruchirappalli.



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5. The Treasury Officer,
District Treasury,
Tiruchirappalli

6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
W.P.(MD)No.7458 of 2021
and
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Dated : 27.03.2024