



W.P.(MD)No.2040 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.2040 of 2021

and

W.M.P.(MD)No.1720 of 2021

P.Esakimuthu

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Thasildar,
Rajapalayam Taluk,
Rajapalayam,
Virudhunagar District.

3. Lakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the second respondent's impugned memo dated 28.01.2019 in proceeding O.Mu.Aa.1/11904/2018 and quash the same and consequently direct the second respondent to issue legal heirship certificate of deceased P.Periyasamy.



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For Petitioner : Mr.G.Ganesh Kumar
For R1 & R2 : Mr.A.K.Manikkam
Special Government Pleader
For R3 : No appearance

ORDER

The Writ Petition is directed against the memorandum issued by the second respondent dated 28.01.2019 refusing to issue legal heir certificate to the writ petitioner.

2. The learned counsel appearing for the writ petitioner would submit that the writ petitioner's father Periyasamy died on 16.06.2018 leaving behind his wife Ganapathiammal and two sons, namely, Esakimuthu/writ petitioner herein and Sangiliraj and a daughter by name Esaki, that since the writ petitioner's father died in an accident, they have laid a claim petition and for that purpose, they have applied for legal heir certificate and that the second respondent, taking note of the objections raised by one Lakshmi/third respondent herein that she is the wife of the deceased Periyasamy, has rejected the claim of the writ petitioner for issuance of legal heir certificate that since the deceased Periyasamy had two wives.



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3. The learned counsel appearing for the writ petitioner would further submit that the third respondent is the wife of one Kottamalai and they had two sons, namely, Madasamy and Mahendran, that the writ petitioner has produced the Aadhar Card of the third respondent and her sons, wherein, it has been specifically shown that the said Kottamalai is the husband of the third respondent and is the father of the said two persons, namely, Madasamy and Mahendran and that though the said documents were produced before the second respondent, the second respondent, without considering the same, by taking note only the objections of the third respondent, has mechanically rejected the claim of the writ petitioner.

4. Despite the receipt of Court notice, the third respondent has not turned up.

5. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that since the third respondent has raised objections, the second respondent has rightly rejected the claim.



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6. Considering the above facts and circumstances and also the fact that though the writ petitioner has produced ample documents, the second respondent, without considering the same, has passed the impugned order and as such, this Court has no hesitation to hold that the impugned order is liable to be set aside. Accordingly, the impugned order dated 28.01.2019 is set aside and the matter is remitted back to the second respondent for fresh consideration and after restoring the same on file, the second respondent is directed to give notice to the writ petitioner as well as the other interested parties including the third respondent and by considering the documents produced on either side including the writ petitioner, pass orders within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

15.04.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm



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To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Thasildar,
Rajapalayam Taluk,
Rajapalayam,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J

csn

Order made in
W.P.(MD)No.2040 of 2021
and
W.M.P.(MD)No.1720 of 2021

Dated : 15.04.2024