



W.P.(MD)No.5584 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 05.03.2024

DELIVERED ON : 22.03.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.5584 of 2021

and

W.M.P.(MD)No.4425 of 2021

Dhanalakshmi

... Petitioner

Vs.

1.The Tahsildar,
Singampunari Taluk,
Sivagangai District.

2.Kavitha

3.Minor Dhanusujan,
represented bt his mother
namely Kavitha.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.A1/4969/2020, dated 17.11.2020 and quash the



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same as illegal and consequently direct the first respondent to issue legal heirship certificate to the petitioner and her children alone.

For Petitioner : Mrs.A.Banumathy
for Mr.M.Maharaja

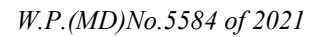
For Respondents : Ms.K.Christy Theboral
Additional Government Pleader
for R.1

: Mr.G.Prabhu Rajadurai
for R.2 and R.3

ORDER

The Writ Petition is directed against the order dated 17.11.2020 passed by the first respondent and for direction to the first respondent to issue legal heirship certificate showing the petitioner and her children as the legal heirs of the deceased Venugopal.

2. The case of the petitioner is that she got married one Venugopal, S/o Ponnaiya on 21.05.1992 and due to their wedlock, they were blessed with four female children and one male child, that her husband Venugopal had died on 31.11.2017, that the Regional Deputy Tahsildar, Kalasapakam has issued the death certificate of her husband on 2/12



3. It is the further case of the petitioner that this Court by quashing order dated 12.06.2020, remitted the matter back to the respondent directing him to conduct fresh enquiry and such exercise should be done in a period of 8 weeks from the date of receipt of a copy of that order, that the second respondent made a representation to the first respondent and requested him to include her name and her child's name



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Dhanusujan (3rd respondent) as the legal heirs of the said Venugopal, that the Regional Deputy Tahsildar, Singampunari visited Muraiyur on 27.10.2020 and conducted enquiry with three persons in the Village, but has not issued any notice to the petitioner and family members and did not conduct any enquiry with her and that the first respondent without conducting any proper enquiry and without following the directions of this Court passed in W.P.(MD)No.9037 of 2020, has passed the impugned order dated 17.11.2020, including the third respondent along with the petitioner and her children in the legal heir certificate and that therefore, the petitioner was constrained to approach this Court again with the above Writ Petition.

4. The learned Counsel for the petitioner would submit that the second respondent had furnished the third respondent's Aadhar card, wherein Venugopal has been shown as C/o, that the second respondent has not produced any marriage proof and the birth certificate of the third respondent and that neither the Regional Deputy Tahsildar, Singampunari, nor the first respondent has conducted any proper enquiry. The learned Counsel would further submit that the second



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respondent is working as a Revenue Inspector at Nachiyarpuram, Thiruppathur Taluk, Sivagangai District, that the second respondent being an influential lady has misused her power and made the authority to include the third respondent as one of the legal heirs of the said Venugopal, that the second respondent already got married with one Saravanaraja, that the petitioner's husband Venugopal at no point of time had married the second respondent, that the third respondent is not the son of her husband Venugopal, that the second respondent was found fault with by this Court in the order passed in the Writ Petition in W.P. (MD)No.24185 of 2019, dated 20.11.2019 filed by one Ravindran and that the impugned order came to be passed to help their officer – second respondent.

5. The learned Additional Government Pleader appearing for the first respondent would submit that as per the directions of this Court, fresh enquiry was conducted, that an enquiry notice dated 15.10.2020 was issued to the petitioner and in pursuance of the same, she had participated in the enquiry and made her submissions on 27.10.2020, that the second respondent has also made representation on 27.10.2020



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stating that she got married Venugopal and the third respondent was born to them and hence, she made a request to add his son – the third respondent along with the first wife's legal heirs, that the first respondent has called for report from the Zonal Deputy Tahsildar and that the first respondent, after conducting enquiry and on receiving the report from the Zonal Deputy Tahsildar, has passed the impugned order dated 17.11.2020 by including the petitioner and her five children along with the third respondent as the legal heirs of the deceased Venugopal. The learned Counsel would further submit that the petitioner if aggrieved by the impugned order ought to have approached the appellate authority and without exhausting the alternative remedy has filed the present Writ Petition and as such, the same is not maintainable and is liable to be dismissed.

6. It is pertinent to note that the Government has issued a circular dated 29.09.2022 in pursuance of the judgment of the Full Bench of this Court in *P.Venkatachalam and others Vs. The Tashildar* reported in **2022(4) CTC 1**, whereunder the Government has issued guidelines for issuance of the legal heirship certificate.



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7. It is pertinent to note that the said circular provides for appeal and revision provisions. Any person aggrieved by the orders of Tahsildar has to prefer the appeal before the Revenue Divisional Officer and any person aggrieved by the orders of the Revenue Divisional Officer, in the appeal, has to prefer a revision before the District Revenue Officer. In the case on hand, the petitioner has challenged the order passed by the Tahsildar and as per the above circular, the petitioner ought to have preferred an appeal before the concerned Revenue Divisional Officer. Assuming for a moment that the above circular has no application to the case on hand, as the impugned order came to be passed on 17.11.2022, as rightly contended by the learned Additional Government Pleader, the Government has earlier issued a circular dated 24.09.2019 giving revised guidelines and instructions for issuance of legal heir certificate and wherein there is a specific provision for appeal and revision in paragraph Nos.9 and 10 of the said circular, which contemplate that if any dispute arise on the legal heir certificate issued, an appeal petition shall be filed to the respective Revenue Divisional Officer, within a period of one year from the date of issuance of the



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certificarte and if anybody is aggrieved by the appeal order, the revision petition shall be filed before the District Collector within a period of three years from the date of issuance of the appeal order. As rightly contended by the learned Additional Government Pleader, the petitioner without availing the statutory appeal, has approached this Court directly invoking Article 226 of the Constitution of India and as such, the same cannot be legally be entertained.

8. The learned Counsel for the petitioner would submit that the first respondent has not conducted any proper enquiry by following the directions of this Court passed in W.P.(MD)No.9037 of 2020.

9. In the counter affidavit filed by the first respondent, it has been specifically stated that the enquiry notice dated 15.10.2020 was sent to the petitioner and in pursuance of the same, she had participated in the enquiry and made her submissions on 27.10.2020. In the affidavit filed in support of the writ petition, the petitioner has specifically stated that the Regional Deputy Tahsildar, Singampunari had visited Muraiyur and conducted enquiry.



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10. This Court, in the earlier order made in W.P.(MD)NO.9037 of 2020, by remitting the matter back to the first respondent, directed him to conduct fresh enquiry and such exercise should be conducted within a period of 8 weeks. Considering the above, the contention of the petitioner that no proper enquiry was conducted is absolutely devoid of substance and is liable for rejection.

11. As rightly contended by the learned Counsel for the respondents 2 and 3, the petitioner has referred the order of this Court passed in another writ petition filed by one Ravindran, totally unconnected with the parties, wherein taking note of the conduct of the second respondent, directed the District Collector to transfer her to some other Taluk and the above order cannot be taken advantage of by the writ petitioner for the present case. Moreover, as rightly contended by the learned Additional Government Pleader, the second respondent herself, has submitted before the first respondent that her son's name may be included along with the petitioner and her children and she has not insisted for inclusion of her name.



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12. Generally, the legal heirship certificates are issued by the Tahsildar to the family members of the deceased based on the fact finding enquiries undertaken by the Deputy Tahsildars, Revenue Inspectors and Village Administrative Officers. The Revenue Officials are not expected to conduct enquiry similar to that of a trial of a suit in the civil Court. In the case on hand, as already pointed out, after conducting enquiry and on getting the report from the revenue officials, the first respondent has passed the impugned order and as such, the same cannot be found fault with. Moreover, in *Venkatachalam's case* above referred, the Full Bench of this Court has specifically observed that a legal heirship is a status governed by the respective personal law of parties through various statutes and the certificates issued by the Tahsildar amount to nothing more than a relationship certificate reflecting the opinion of the Tahsildar as to the relationship of the applicant and others named therein with the deceased and that therefore, the certificate issued by the Tahsildar does not affect the legal right of any party and has no bearing on the status of a legal heir which is conferred on an individual under his/her personal law.



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13. Moreover, in the impugned order, the first respondent has specifically observed that in case of any objection to the impugned order, they are at liberty to approach the Court for necessary reliefs. Hence, this Court concludes that the Writ Petition is devoid of merits and the same is liable to be dismissed.

14. In the result, the Writ Petition is dismissed. Consequently the connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

.....03.2024

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

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To

The Tahsildar,
Singampunari Taluk,
Sivagangai District.



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K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY ORDER MADE IN

**W.P.(MD)No.5584 of 2021
and
W.M.P.(MD)No.4425 of 2021**

22.03.2024