



W.P(MD)No.13141 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13141 of 2020

and

W.M.P(MD)No.11027 of 2020

D.Anbu Jeyaraj

... Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Revenue Department,
Secretariate,
Chennai – 600 009.

2.The District Collector,
Tirunelveli.

3.The Tahsildar,
Manur Taluk,
Manur – 627 201.

... 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 impugned order dated 11.12.2019 of the



W.P(MD)No.13141 of 2020

third respondent quash the same as illegal arbitrary and violation of principles of law and further direct the third respondent to issue the legal heir certificate within the time.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

Heard both sides.

2.The petitioner's father Durairaj originally got married to one Balammal. She passed away on 02.01.2006. Thereafter, the petitioner's father married one Sermakani. The petitioner's father passed away on 29.07.2019. The petitioner applied to the third respondent seeking issuance of legal heir certificate. The petitioner's request was rejected on the ground that the petitioner's father was having more than one wife. This stand of the third respondent is assailed in this writ petition.

3.As rightly pointed out by the learned counsel appearing for the petitioner, the petitioner's father appears to have married Sermakani only after the demise of his first wife.



W.P(MD)No.13141 of 2020

WEB COPY

4.The learned counsel appearing for the petitioner draws my attention to the order dated 06.06.2019 made in W.P(MD)No.12881 of 2019 (D.Sivasailam Vs The Government of Tamil Nadu & Others).

Paragraphs 3 and 5 of the said order read as follows:

“3.The petitioner is one of the legal heir of the father of the petitioner, who had two wives and according to the learned counsel appearing for the petitioner, after the demise of the first wife only, second wife was married and through both the wives, the petitioner's father had children and in order to get a legal heir certificate for all the children, who are first class heirs, the petitioner made application to the 3rd respondent Tahsildar. However, the same had been rejected by the Tahsildar through the impugned order without any plausible reason. In this regard, the learned counsel appearing for the petitioner has relied on a number of decisions passed by this Court by the respective learned Judges.

4....



W.P(MD)No.13141 of 2020

5. In view of the said factual matrix and in view of the stand taken by the learned Additional Government Pleader appearing for the respondents, this Court is inclined to pass the following order:

“the impugned order rejecting the plea of grant of legal heir certificate is hereby quashed and the matter is remitted back to the respondents, especially, the third respondent with a direction that the request of the petitioner along with the other legal heirs of the father of the petitioner shall be considered on merits and in accordance with law, accordingly after having conducted due enquiry, necessary order pertaining to the legal heirs of the petitioner's father shall be issued and the copy of the same shall be communicated to the petitioner and the needful would be undertaken by the 3rd respondent within a period of eight weeks from the date of receipt of a copy of this order.””

The case on hand is similar. Even without verifying whether the petitioner's father married Sermakani after the demise of the first wife Balammal, the impugned order has been mechanically passed. In this view of the matter, it is set aside. The matter is remitted to the file of the third respondent. The third respondent will hold an enquiry and issue



W.P(MD)No.13141 of 2020

legal heir certificate containing the names of all the legal heirs of the deceased Durairaj. Such a certificate shall be issued by the third respondent within a period of twelve weeks from the date of receipt of a copy of this order.

5.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.01.2024

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

To

1.The Secretary to Government,
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3.The Tahsildar,
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W.P(MD)No.13141 of 2020

G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.13141 of 2020
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