



WEB COPY

W.P(MD)No.802 of :



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.802 of 2021

and

W.M.P(MD)Nos.663 and 666 of 2021

1.OL.SP.Olagappan (Died)

2.Kannathal

3.Thenammai Athappan

4.Karthick Olagappan Athappan

(rep.by his Power of Attorney, Kannathal Vide Court order,
dated 28.06.2024 in WMP(MD)No.11669/2024 in
WP(MD)No.802/2021)

5.Minor.A.Devi Nachammai

(rep.by mother and guardian, Thenamai Athappan/3rd petitioner herein)

6.Meenakshi Olagappan

7.OL.Subramanian

: Petitioners

(Petitioners 2 to 7 are substituted vide Court Order, dated 28.06.2024 in
WMP(MD)No.11635/2024 in WP(MD)No.802/2021)

Vs.

The Tahsildar,
Taluk Office, Karaikudi,
Sivagangai District.

: Respondents



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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 relating to the impugned order of the respondent, dated 28.06.2019 in first application No.7201906281984, impugned order of respondent, dated 27.09.2019 in second Application No.7201909272222 and the impugned order of respondent, dated 28.02.2020 in third Application No.7202002281182, quash the same and consequently, direct the respondent herein to consider the applications of petitioner for grant of legal heir certificate for his grandmother late.Smt.Nachammai Achi, W/o.Olagappan Chettiar, following the due process of law.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondent : Mr.V.Om Prakash,
Government Advocate

ORDER

This Writ Petition is directed against the orders rejecting the requisition of the petitioner claiming legal heir certificate to his father and to grandmother.

2. The case of the petitioner is that his father Subramaniam died on 14.12.1979 leaving behind him, his mother Kannammai Achi @ Kannachal Achi and his grandmother Nachammai Achi; that subsequently, his grandmother Nachammai Achi died on 20.04.1983 leaving behind the



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petitioner as her sole grandson and subsequently, his mother also died on 01.12.1999 leaving behind the petitioner as sole legal heir; that the petitioner has applied before the respondent claiming legal heir certificate to his father Subramaniam Chettiar as well his grandmother Nachammai Achi, through online, but they have passed orders rejecting the applications with regard to the petitioner's father as “ wrongly added son of pre-deceased son” and the application with regard to the grandmother as “based on VAO, RI & HQ DY Tahsildar's rejection.

3. Though the respondent has filed a counter affidavit, they have not elaborated the above rejection orders. But, they have taken a different stand that the petitioner has to only approach the competent Civil Court.

4. As rightly contended by the learned counsel for the petitioner, in the earlier Government Order, which was applicable at that point of time that there is no bar or prohibition for granting legal heir certificate for the adopted children.

5. But the learned Government Advocate appearing for the respondent would submit that in pursuance of the judgment of this Court, the present G.O.Ms.No.110, dated 13.03.2024 came to be issued, wherein “ In case of



death of married person, the children/legally adopted children of the deceased are entitled, but they have to prove that they are the legally adopted children and that the Government Order does not define the words legally adopted children of the deceased.

6. When the matter is taken up for hearing today, the learned Government Advocate would submit that the matter may be remitted back to the respondent and he may be directed to conduct fresh enquiry and pass orders in accordance with law.

7. The learned counsel for the petitioner would submit that the petitioner may be given an opportunity to take part in the physical enquiry and to direct the respondent to pass order in accordance with law. He would further submit that pending the Writ Petition, the petitioner was reported dead and his legal heirs have been impleaded.

8. Considering the facts and circumstances of the case and the way in which, the impugned order came to be passed, this Court has no hesitation to hold that the impugned orders cannot be legally sustained and the same are liable to be quashed.



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9. In the result, Writ Petition is allowed and the impugned orders dated 28.06.2019, dated 27.09.2019 and dated 28.02.2020 are quashed and the respondent is directed to issue proper notice to the petitioners and conduct a fresh enquiry and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of copy of this order. Consequently, connected Miscellaneous petitions are closed. No costs.

10.07.2024

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

To

The Tahsildar,
Taluk Office, Karaikudi,
Sivagangai District.

K.MURALI SHANKAR, J



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W.P(MD)No.802 of ;

DAS

Order made in
W.P(MD)No.802 of 2021
and
W.M.P(MD)Nos.663 and 666 of 2021

Dated 10.07.2024