



W.P.(MD) No.19390 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.19390 2024

and

W.M.P.(MD)No.16430 of 2024

Moorthy

...Petitioner

-VS-

1.The Tahsildar,
Office of the Tahsildar,
Ilippur Taluk,
Pudukottai District.

2.Saraswathi

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the first respondent dated 25.05.2024 in Na.Ka.No.02/2024/a2 and quash the same and consequently direct the first respondent to reconsider the petitioner's application for a legal heir certificate without considering the fraudulent claims of the second respondent within the time stipulated by this Court.



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For Petitioner : Mr.J.Vishnu
For R1 : Mr.D.Gandhiraj
Special Government Pleader

ORDER

Challenging the order rejecting the application of the petitioner seeking legal heirship certificate, the petitioner has filed this writ petition.

2.The petitioner has applied for legal heirship certificate for the purpose of claiming compensation for the death of his father in an accident that had happened on 20.02.2024. But the said application was rejected stating that the second respondent claiming to be the second wife of the petitioner's father, had filed an objection for issuing the legal heirs certificate to the petitioner.

3.The learned counsel for the petitioner submits that the petitioner and his family are only the legal heirs of his father. The second respondent had not produced any evidence to prove the marriage between



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her and the father of the petitioner. Further, the father of the petitioner died on 20.02.2024. However, the second respondent had recently gave birth to a child, which itself indicates that the second respondent is not the wife of the petitioner's father.

4.At the outset, this Court is of the view that these issues cannot be gone into in a writ petition. The petitioner's father died on 20.02.2024 and the second respondent gave birth to a child very recently. Such being the position, whether the child born is born to the petitioner's father or not is a matter of evidence, which has to be seen in the Civil Court. The Tahsildar cannot go into the disputed questions of facts such as paternity of a child etc..

5.In such view of the matter, the order impugned in this writ petition calling explanation from the petitioner is set aside and the petitioner is given with liberty to file a civil Suit to establish that he is the only legal heir of his father.



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6. With the above observations, this writ petition is partly allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

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To

The Tahsildar,
Office of the Tahsildar,
Ilippur Taluk,
Pudukottai District.



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N.SATHISH KUMAR, J.

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