



WP(MD). No.22542 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 06/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.22542 of 2019

A. Banumathi

... Petitioner

Vs

1. The Revenue Divisional Officer,
Devakottai, Sivagangai District.

2. The Thasildar,
Singampunari Tk, Sivagangai.

3. Deivanai,
W/o. Arumugam, S.Ganeshapuram,
Sokkalingapuram Panchayat, Melur Tk,
Madurai District.

... Respondents

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entry record pertaining to the impugned order passed by the 2nd respondent in O.Mu(A3) 1830/2019 in dated 01/10/2019 and to quash the impugned order of the 2nd respondent and consequently direct the respondents to issue legal heir certificate to the petitioner as per the Hindu Succession in cases.



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For Petitioner : M/s. P. Banuprasath,
For Respondents : Mr.P.Subbaraj for R1&R2
Special Government Pleader
Mr.R.Karthick Raja for R3

ORDER

Challenge has been made to the impugned order of the Tahsildar in rejecting the petitioner's request to issue legal heir certificate.

2. The case of the petitioner is that she married one Arumugam as his second wife in the year 1985 and two children born out of the wedlock. Her husband died on 03.02.2019. Hence, the petitioner has applied legal heir certificate. The same has been rejected vide the impugned order. Challenging the same, the petitioner is before this Court.

3. Counter affidavit has been filed by the 2nd respondent to the effect that the petitioner married the said Arumugam during the subsistence of the first marriage. There are other legal heirs and without hearing them, they cannot issue a legal heir certificate and only a civil Court has jurisdiction to decide the same.



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4. The petitioner has married during the subsistence of the earlier marriage. The first wife is also available even as per the impugned order. Therefore, whether the petitioner's marriage is validly performed or not has to be decided. Even assuming that the said marriage is valid, then the children alone will be treated as Class I legal heir and that has to be decided only in civil Court.

5. In such view of the matter, no interference is warranted to the impugned order. The petitioner has to file appropriate suit before the civil Court for establishing her rights. The writ petition is dismissed accordingly. No costs.

06.08.2024

RR

TO

1. The Revenue Divisional Officer,
Devakottai, Sivagangai District.

2. The Thasildar,
Singampunari Tk, Sivagangai.

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N.SATHISH KUMAR,J

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