



W.P(MD)No.24475 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24475 of 2023

C.Kalanithi Prema

... Petitioner

Vs.

1.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

3.The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

G.Pancy Esther Nagomi (Died)

4.R.Prince
(R4 is substituted vide order dated 20.12.2023
in W.M.P.(MD)No.24380 of 2023 in W.P.
(MD)No.24475 of 2023 by GRSJ)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the
records relating to the impugned order of the 1st respondent in



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O.Mu.B3-3-2-2023-B3 dated -09-2023, signed on 04.09.2023 and quash the same and consequently direct the 3rd respondent to issue legal heir certificate to the petitioner and her son as legal representatives of her husband deceased R. Chelladurai.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 to R3.
Mr.N.Balakrishnan for R4.

ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the official respondents and the learned counsel for the substituted fourth respondent.

2.The marriage between the petitioner and one Chelladurai was solemnized as per Christian rites and customs on 26.05.1971. Chelladurai wanted to dissolve his marriage with the petitioner and to that effect, the parties executed a registered deed on 24.12.1979. Chelladurai thereafter was living with Pancy Esther Nagomi. They were under the impression that marriage had



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taken place between them. In fact, a registered document was also executed on the same lines on 24.04.1980. Chelladurai subsequently left Pancy Esther Nagomi and rejoined the petitioner herein. This assertion is contested by the learned counsel for the fourth respondent. Chelladurai passed away on 26.12.2022. The petitioner applied for issuance of legal heir certificate. The authority took the stand that since Chelladurai was twice married as evident from registered documents, legal heir certificate as sought for cannot be issued and the petitioner was relegated to move the jurisdictional Civil Court. Challenging the stand of the third respondent, the present writ petition came to be filed.

3.During the pendency of the writ petition Pancy Esther Nagomi passed away on 28.09.2023. This Court therefore substituted her nephew as party respondent.

4.The only question that calls for consideration is whether the authority was justified in rejecting the petitioner's request for issuance of legal heir certificate. It is beyond dispute that the marriage between the petitioner and Chelladurai was a church wedding. It could have been dissolved only in the manner known to law. The Divorce Act, 1869 provides for dissolution of



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validly solemnized Christian marriage. In this case, the parties did not invoke the said mode. They instead chose to execute a document for dissolution of marriage. Though the said document was registered, its legal effect is nil. Therefore, the deed of dissolution of marriage as executed by the parties will have to be treated as nullity. The only consequence flowing therefrom is that the marital tie remains intact in law. So long as the marriage between the petitioner and Chelladurai was not dissolved in the manner known to law, any association between Chelladurai and Pancy Esther Nagomi cannot also be legally recognized. The petitioner's status as wife of Chelladurai continues to hold good. The learned counsel for the petitioner rightly relied on the decision of the Hon'ble Division Bench of Kerala High Court reported in **(1988) 2 KLT 890 (Jose Vs. Alice)** and the decision of the Hon'ble Gujarat High Court reported in **1999 (2) GLR 1814 (Silvance Frankin Baria Vs. Elizabeth David Hendry)**.

5. In this view of the matter, the impugned orders passed by the respondents 1 and 2 are set aside. The matter is remitted to the file of the third respondent. It is seen that enquiry in the matter had already been conducted and the relationship among the parties is also beyond dispute. The third respondent is directed to issue legal heir certificate mentioning the petitioner



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and the son born through the wedlock between the petitioner and Chelladurai as legal heirs. Certificate to that effect shall be issued by the third respondent within a period of three weeks from the date of receipt of a copy of this order.

6.This writ petition is allowed accordingly. No costs.

05.03.2024

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

- 1.The District Revenue Officer,
Virudhunagar District,
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Aruppukottai,
Virudhunagar District.
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G.R.SWAMINATHAN, J.

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