



W.A.No.321 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :17.02.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**  
**AND**  
**THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

W.A.No.321 of 2024

A.Mohammed Zakiullah

... Petitioner

*Vs.*

1.The District Collector,  
Vellore District,  
Vellore,  
Now Tirupattur District.

2.The Sub Collector,  
Sub Collector's Office,  
Tirupattur,  
Tirupattur District.

3.The Tahsildar,  
Ambur,  
Tirupattur District.

4.Fiaz Ahamed

... Respondents

**Prayer:** Writ Appeal has been instituted under Clause 15 of the Letter Patent, to set aside the order passed in W.P.No.4729 of 2013 dated 22.06.2022 by allowing the present Writ Appeal.

For Petitioner : Mrs.N.Kavitha Rameshwar



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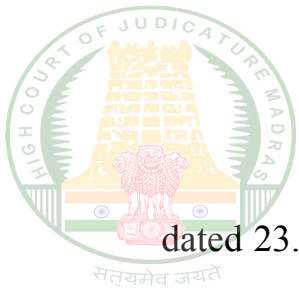
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For Respondents : Mr.Vadivelu Deenadayalan  
Additional Government Pleader (for R1-3)  
Mr.L.Prabakar (for R4)  
**JUDGMENT**

(Judgment of the Court was made by *S.M.SUBRAMANIAM, J.*)

The intra-court Appeal on hand has been instituted to assail the order dated 22.06.2022 in W.P.No.4729 of 2013.

2. The Writ Petitioner is the appellant before this Court. The appellant claims that he is the son of Mr.Niyamathullah, who was born to Late.Mr.Abdul Jabbar and Mrs.Salmabi. Mrs.Salmabi predeceased her husband Mr.Abdul Jabbar and thereafter, Mr.Abdul Jabbar married Mrs.Rabiya Bi Saiba. She had no issues out of the said wed lock. However, the appellant states that his father was adopted when he was 6 years old and Mr.Abdul Jabbar died in the year 1972, leaving behind his 2<sup>nd</sup> wife Mrs.Rabiya Bi Saiba and adopted son Mr.Niyamathullah. Admittedly, the legal heir certificate was issued in the year 1973, after the demise of Mr.Abdul Jabbar. The appellant further claims that Mrs.Rabiya Bi Saiba during her life time executed Hiba with respect to the property in favour of her daughter-in-law and grand children. On the demise of Rabiya Bi Saiba, the appellant, as a grand son, applied for issuance of Legal heirship certificate before the Tahsildar. The 3rd respondent vide proceedings



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dated 23.06.2010 issued legal heir certificate, wherein the appellant was shown

as one of the legal heir of the deceased Mrs.Rabiya Bi Saiba, apart from four other persons.

3. While so, the 4th respondent Mr.Fiaz Ahamed filed a petition seeking cancellation of legal heir certificate issued. Since the District Collector canceled the legal heir certificate in proceedings dated 26.10.2012, the said proceedings came to be challenged in the Writ Petition in W.P.No.4729 of 2013.

4. The learned counsel for the appellant would mainly contend that the Writ Court has misconstrued the fact that the appellant is claiming right only based on his capacity as an adopted son of Mrs.Rafiya Bi Saiba. Contrarily, his claim is otherwise. Thus, the writ order is to be set aside.

5. The learned counsel for the 4th respondent would oppose by stating that the Hiba allegedly stated is a bogus document. The Civil Suit instituted by the appellant, was subsequently withdrawn. Therefore, the Writ Appeal is to be rejected.

6. We have considered the rival submissions and found that the facts



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are seriously disputed.

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7. The Tahsildar is empowered to issue legal heir certificate by exercising his delegated power by the Government in consonance with the Government order. In the event of any dispute exists, the Tahsildar has to relegate the parties to approach the competent Civil Court of law. The Tahsildar / District Appellate Authority / District Collector are incompetent to adjudicate the disputed facts of civil nature, which require verification of original documents and evidences to be recorded through trial nature proceedings.

8. In the present case, the claim of the appellant has been disputed by the 4<sup>th</sup> respondent. The Hiba relied on by the appellant is said to be bogus by the 4<sup>th</sup> respondent. That apart, the issue was the subject matter of the earlier suit instituted by the appellant. This Court is of the considered opinion that the District Collector had rightly cancelled the legal heir certificate, since it is found that family dispute exists and therefore, the parties have to resolve the issue by approaching the competent Civil Court of law. The learned Single Judge considered this aspect and dismissed the Writ Petition, which is in opinion of this Court is in consonance with the established principles. In the event of institution of any suit or in a pending suit, issues between the parties ought to be



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adjudicated independently.

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9. With the above observations, the Writ Appeal stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions, if any, are closed.

[S.M.S., J.] [K.R.S., J.]  
17.02.2025

Index: Yes/No  
Speaking/Non-speaking order  
*gd*



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**S.M.SUBRAMANIAM, J.**  
**AND**  
**K.RAJASEKAR, J.**

*gd*

To

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Vellore,  
Now Tirupattur District.
- 2.The Sub Collector,  
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