



W.P.No.33588 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33588 of 2024
and
WMP.No.36377 of 2024

AL.Abirami

... Petitioner

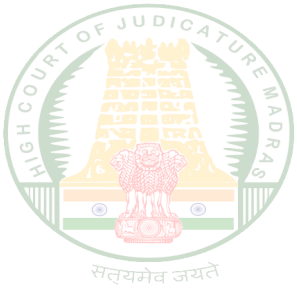
Vs.

1.The Tahsildhar
Ayanavaram Taluk
Chennai.

2.Meenal

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the first respondent from issuing legal heir certificate in favour of the second respondent until disposal of the suit in C.S.No.880 of 2016 pending on the file of the Court.



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For Petitioner : M/s.Eswar, Kumar and Rao

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by

Dr.S.Suriya for R1
Additional Government Pleader

ORDER

This Writ Petition is filed with the prayer to issue a Writ of Mandamus or order of direction in the nature of Writ forbearing the first respondent from issuing legal heirship certificate in favour of the second respondent until the disposal of the suit in C.S.No.880 of 2016 pending on the file of this Court and for such other orders.

2. The contention of the learned counsel for the petitioner is that the first respondent had already issued a legal heirship certificate on 30.06.2021. Now, the second respondent is disputing as to the entries in the legal heirship certificate and has given a petition and upon which, the first



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respondent is proceeding to conduct an enquiry. It is the case of the petitioner that the second respondent was never married to the said S.Alagu Palaniyappan, S/o. Sambandan and therefore, the matter is at large before the Civil Court. Therefore, it is the contention of the petitioner that until the Civil Court decides the issue, the first respondent should not proceed further to conduct an enquiry.

3. The Additional Advocate General appearing on behalf the first respondent would submit that when the Authority had issued the legal heirship certificate, it had received a representation from the second respondent and therefore, it was taken up in the manner known to law.

4. The learned counsel appearing on behalf of the second respondent would submit that this is a case where S.Alagu Palaniappan was originally married to one Valliammai and by the Court order, he got divorced with the said Valliammai and again married the second respondent on 28.06.2010. The second respondent is contesting the Civil Suit. When the legal heirship certificate being erroneously given by including the name of



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the divorced wife as a legal heir and not including the second respondent, who is the wife as on the date of the death of the said S.Alagu Palaniappan, the second respondent has made a petition.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. When the legal heirship certificate is issued on 30.06.2021 and when according to the second respondent, it contains erroneous particulars, it is for the first respondent to conduct an enquiry with regard to the same and come to his own conclusion. This Court cannot issue a writ of prohibition unless it finds that there is a total want of jurisdiction. The only contention that is made is that let the Civil Court decide the issue until then the first respondent need not conduct an enquiry. The same cannot be accepted. If the petitioner has got a prima facie case and if the petitioner wants the Court to prohibit the second respondent from claiming herself to be the wife, then on the basis of the prima facie case, the petitioner can move only the Civil Court where the suit is pending. Merely because the civil suit



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is pending, it cannot be argued that the Tahsildar cannot take up an enquiry with reference to the error that is pointed out. Neither the Civil Court will be bound by the legal heirship certificate that is issued by the Tahsildar and it is for the parties to independently establish before the Civil Court as to their marital status or otherwise.

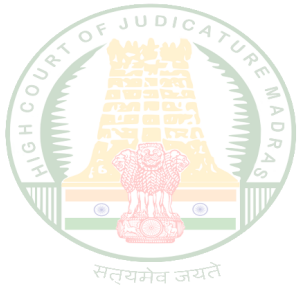
7. With the above observation, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

07.02.2025

Neutral Citation : Yes/No
dna

To

The Tahsildhar
Ayanavaram Taluk
Chennai.



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D.BHARATHA CHAKRAVARTHY, J.

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