



W.P.(MD)No.11567 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.11567 of 2025

K.Muthuselvi Kandhasamy

... Petitioner

-VS-

The Tahsildar,
Thoothukudi Taluk,
T.V.Puram, Thoothukudi.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.A4/786/2025 dated 13.03.2025 and to quash the same as illegal and consequently, directing the respondent herein to issue a legal heirship certificate for the deceased Muthukrishnan Subbiah to the petitioner and her two daughters based on the application of the petitioner dated 14.05.2024 and subsequent reminders dated 06.06.2024 and 19.02.2025.

For Petitioner : Mr.D.Srinivasaragavan

For Respondent : Mr.K.S.Selva Ganesan
Additional Government Pleader



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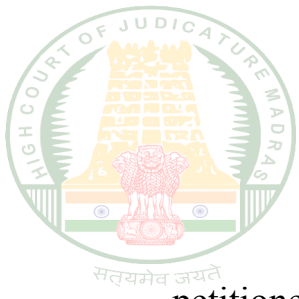
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ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the respondent, dated 13.03.2025 and a consequential direction to the respondent to issue legal heirship certificate of the petitioner's husband Muthukrishnan Subbiah to the petitioner and her two daughters based on the application of the petitioner dated 14.05.2024 and subsequent reminders dated 06.06.2024 and 19.02.2025.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner submits that the petitioner was married to Muthukrishnan Subbiah on 22.08.1999 and the marriage was duly registered at the Melur Sub-Registrar Office on 25.08.1999. Out of the said wedlock, two daughters, namely, Suthiksha and Lakshaya were born to them. Subsequently, due to difference of opinion between the petitioner and her husband, the petitioner's husband filed H.M.O.P.No.111 of 2008 for divorce, which was later transferred and renumbered as H.M.O.P.No.80 of 2010. However, the said petition was dismissed for default on 10.12.2011. Thereafter, the



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petitioner's husband filed another petition for divorce (H.M.O.P.No.75 of 2012), which was transferred to the Principal Sub-Court, Tirunelveli and renumbered as H.M.O.P.No.235 of 2013. The said petition was allowed by the Court on 02.09.2016, granting decree of divorce.

4. The learned counsel for the petitioner further submits that the petitioner filed H.M.C.M.A.No.46 of 2016 against the order dated 02.09.2016 passed in H.M.O.P.No.235 of 2013. The said appeal was allowed by the I Additional District Court, Tirunelveli, on 01.03.2018, setting aside the decree of divorce. As a result, the marriage between the petitioner and her husband is not dissolved and the same remain legally recognized. The petitioner's husband tragically passed away on 22.05.2017. As his legal heirs, the petitioner and her two daughters are entitled to his estate and other benefits. Hence, the petitioner applied for a legal heirship certificate for her late husband on 14.05.2024. However, the respondent rejected the request on 13.03.2025, citing the earlier divorce order, which had been set aside by the appellate Court. Therefore, the learned counsel for the petitioner seeks to quash the respondent's order rejecting the petitioner's application and directs the respondent to issue the legal heirship certificate.



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5. The learned Additional Government Pleader appearing for the respondent submits that the application for a legal heirship certificate was rejected because, at the time of the petitioner's husband's death, a valid decree of divorce had been in place, which had dissolved the marriage between the petitioner and her husband. The learned Additional Government Pleader contends that, as per the legal heirship certificate guidelines, a divorced spouse is not entitled to inherit the deceased's property.

6. The learned Additional Government Pleader further submits that the earlier divorce decree, although later set aside, was still in effect at the time of the petitioner's husband's death and as such, the petitioner could not be considered a legal heir under law, even though the decree had been overturned by the appellate Court. Therefore, the rejection of the petitioner's application for the legal heirship certificate was based on law and regulations regarding inheritance following a divorce and therefore, the order to reject the certificate was lawful.

7. Heard both sides.



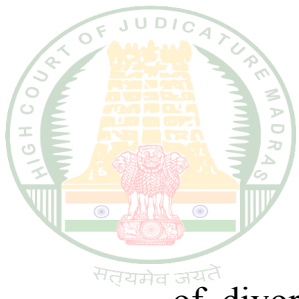
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8. After considering the submissions of both parties, this Court observes that the petitioner was legally married to Muthukrishnan Subbiah and that the decree of divorce granting the dissolution of the marriage was later set aside by the I Additional District Court, Tirunelveli, on 01.03.2018. This Court also notes that this decision reinstates the marital status of the petitioner and her late husband at the time of his death.

9. Considering the fact that the decree of divorce was set aside, the petitioner and her daughters are legally entitled to inherit Muthukrishnan Subbiah's properties as his legal heirs. This Court holds that the rejection of the legal heirship certificate by the respondent was based on the invalid decree of divorce and therefore, the decision is not in accordance with the current legal position.

10. In light of these facts, this Court remands the matter back to the respondent for a fresh consideration, directing the respondent to issue the legal heirship certificate to the petitioner and her daughters, in accordance with decision of the I Additional District Court, Tirunelveli, which set aside the decree



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of divorce. The respondent is directed to pass appropriate orders within four months from the date of receipt of a copy of this order.

11. With the above observations and directions, this Writ Petition stands allowed. There shall be no order as to costs.

NCC : Yes / No
Index : Yes / No
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24.04.2025

To:-

The Tahsildar,
Thoothukudi Taluk,
T.V.Puram, Thoothukudi.



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VIVEK KUMAR SINGH, J.

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