



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2018

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH**

WEB COPY

W.P. (MD) No.3866 of 2017

K. Shanthi

... Petitioner

vs.

1. The Revenue Divisional Officer  
Collectorate Campus  
Madurai District, Madurai.

2. The Tahsildhar  
Madurai North  
Madurai District

... Respondents

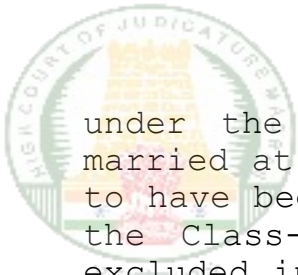
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records on the file of the respondents impugned orders vide Na.Ka.No.6871/2016/C2 dated 03.11.2016 passed by the second respondent and the consequential first respondent impugned order vide Na.Ka.No.6478/11J dated 01.12.2017 and quash the same as illegal, improper, unlawful, unconstitutional and arbitrary and consequently directing the first respondent to issue suitable instructions to the second respondent to pass an order in Terms of the statutory provisions U/s.18 of the Hindu Succession Act, 1956, on the basis of petitioner representation dated 23.06.2016 submitted to the second respondent and the representation dated 14.12.2016 submitted by the first respondent to issue fresh legalheir Certificate exclusively in petitioner's name, since I am the sole Class-I Legalheir .

For Petitioner : Mr.R.Murugan  
For Respondents : Mr.J.Gunaseelan Muthiah  
Additional Government Pleader

### O R D E R

The order under challenge in the present writ petition is with regard to rejection of the petitioner's request to delete her husband's name in the legal heirship certificate of her unmarried son late Jeyaganesh Ram. The reason on which the impugned order has been passed, is that the name of the husband name finds place in the ration card and also that the petitioner has not been legally separated from her husband.

2. I am unable to comprehend as to how such a nature of order could be passed overlooking the succession prescribed under the Hindu Succession Act. The petitioner's husband apparently is a class-II legalheir as per the order of the succession prescribed



under the Hindu Succession Act. Since the deceased son was not married at that time, the mother being the class I legalheir ought to have been shown as a legalheir of late Jeyaganesh Ram. As such, the Class-II heir, namely the petitioner's father name will be excluded in view of Section 18 of the Hindu Succession Act, which gives preference to the heirs of full blood than to the half blood relatives.

3. The mere presence of the petitioner's husband's name in the ration card or that he has not been separated from the petitioner herein will not be a ground to include Class-II legal heir along with Class-I legalheir is totally illegal. There is absolutely no merits in the impugned order passed and as such the writ petitioner is liable to succeed.

4. In the result the impugned order dated 01.02.2017 on the file of the second respondent is quashed and consequently the second respondent is directed to delete the name of the petitioner's husband namely Kannan from the legalheirship certificate of late Jeyaganesh Ram. Such an exercise shall be done within one week from the date of receipt of this order.

5. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CrI.Side)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Revenue Divisional Officer,  
Collectorate Campus,  
Madurai District, Madurai.

2.The Tahsildhar,  
Madurai North,  
Madurai District.

+1CC to Mr.R.Murugan Advocate in Sr.No.76047.

+1CC to Special Government Pleader in Sr.No.76253.

AAV

DS SKN RSK SAR-2 :23.08.2018: 2P/5C

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31.07.2018