

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15101 of 2016

and

W.M.P.No.13158 of 2016

S.Om Prakash

... Petitioner

vs.

1.The Tahsildar,
Mylapore Taluk,
Mylapore Taluk Office,
No.28, Ground Floor,
Pasumpon Muthuramalingam Road,
Raja Annamalaipuram,
Chennai - 28.

2.The Revenue Inspector,
Mylapore Taluk Office,
No.28, Ground Floor,
Pasumpon Muthuramalingam Road,
Raja Annamalaipuram,
Chennai - 28.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus to call for the records of impugned order dated 16.06.2015 passed by the first respondent herein in his proceedings in O.Mu.A4/5275/2015 and quash the same and consequently direct the first respondent herein to issue legal heir certificate for the petitioner's deceased brother S.Chandrasekar in favour of the petitioner indicating the petitioner's name as brother of the said deceased person.

For Petitioner : Mr.D.Ravichander
For Respondents : Mrs.P.Rajalakshmi,
Govt. Advocate

ORDER

The petitioner has filed this writ petition to quash the order dated 16.06.2015 passed by the first respondent and to direct the first respondent to issue legal heir certificate for his deceased brother S.Chandrasekar indicating the petitioner as the brother of the said deceased person.

2. The case of the petitioner is that his brother S.Chandrasekar died as a bachelor, on 18.01.1975. His parents predeceased his brother. The petitioner has obtained the death certificate of his brother dated 15.05.2015. Thereafter, he made an application before the first respondent for issuance of legal heir certificate, in his capacity as brother of the deceased. On receipt of the same, the first respondent ordered enquiry. Pursuant to the same, the second respondent conducted the enquiry and submitted a report dated 08.06.2015 to the first respondent. Based on the same, the first respondent passed the impugned order, rejecting the petitioner's application for issuance of legal heir certificate on the ground of non-availability of Class I heirs and directing the petitioner to get the certificate through the process of court. Aggrieved over the same, the petitioner is before this court with the present writ petition for the above stated relief.

3. Learned counsel for the petitioner submitted that in similar circumstances, this Court, by order dated 25.02.2016 made in WP.No.6972 of 2016, has quashed the impugned order passed by the second respondent therein and consequently directed the petitioner to produce all the required documents to the respondents and on receipt of the same, the respondents were directed to conduct enquiry and pass appropriate orders, with regard to issuance of Class II legal heir certificate to the petitioner therein. He prayed for similar order in this writ petition also.

4. Heard the learned counsel for the petitioner and the learned Government Advocate, who took notice for the respondents and perused the documents placed before this court.

5. Admittedly, Class I heirs of the deceased S.Chandrasekar, who is the brother of the petitioner, predeceased him. The petitioner is his only surviving legal heir. In that event, the petitioner being Class II legal heir, is entitled to succeed the property left out by the said S.Chandrasekar, if no other direct legal heir is available, as per the Schedule appended to the Hindu Succession Act, 1956. However, by the impugned order, the first respondent refused to issue legal heir certificate in favour of the petitioner. Further, in identical situation, this Court in the order dated 25.02.2016 made in WP.No.6972 of 2016 cited on the side of the petitioner, has quashed the order rejecting the application for issuance of Class II heir certificate to the petitioner therein. Following the same, the impugned order is liable to be set aside.

6. Therefore, the order dated 16.06.2015 passed by the first respondent is set aside. The petitioner is permitted to submit a fresh application enclosing all the required documents

to the first respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such submission, the first respondent is directed to conduct enquiry by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any and pass appropriate orders with regard to the issuance of legal heir certificate to the petitioner within a period of eight weeks thereafter. It is made clear that this court is not expressing any opinion with regard to the claim projected by the petitioner and it is for the first respondent to pass appropriate orders, on merits and in accordance with law.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.
rk

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Tahsildar,
Mylapore Taluk,
Mylapore Taluk Office,
No.28, Ground Floor,
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2.The Revenue Inspector,
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Raja Annamalaipuram,
Chennai - 28.

+ 1 cc to Mr.D.Ravichander, Advocate SR 25624

+ 1 cc to Govt.Pleader SR 25861

kgk(co)
prk10/6

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