

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38765 of 2015

and

M.P.No.1 of 2015

1.Krishnammal
2.Sarathi
3.Velu
4.Seetha

... Petitioners

Vs.

Tahsildar,
Thirukazhukundram Taluk,
Kancheepuram District.

... Respondent

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 in the impugned order in O.Mu.No.5398/2015/A4 dated 23.06.2015 passed by the respondent, quash the same and further direct the respondent to issue legal heir certificate to the petitioners.

For Petitioners : Mr.S.Udhayakumar

For Respondent : Mr.S.Pattabiraman,
Govt. Advocate

ORDER

The petitioners have come up with the present writ petition, challenging the order of the respondent dated 23.06.2015 and to direct the respondent to issue legal heir certificate to the petitioners.

2. It is the case of the petitioners that one Janakiraman originally married one Soundarya and the second petitioner herein is his daughter born through her. After the demise of the said Soundarya, Janakiraman married the first petitioner - Krishnammal and petitioners 3 and 4 were born through her. While so, the said Janakiraman, who is the husband

of the first petitioner and father of petitioners 2 to 4, was allotted a plot at Door No.25, Devaneri Fishermen Pakthi, Mamallapuram Village, Kancheepuram District. He died on 15.01.2002 leaving behind the petitioners herein as his legal heirs. Thereafter, the petitioners applied for legal heir certificate with the respondent on 01.04.2015. On receipt of the same, the respondent ordered enquiry. Accordingly, the Revenue Inspector and the Village Administrative officer conducted an enquiry and submitted a report to the respondent. However, the respondent insisted the petitioners to furnish the death certificate of Soundarya, who is the first wife of Janakiraman and mother of the second petitioner. Since the same was not produced, by the impugned order dated 23.06.2015, the respondent rejected the petitioners' application for want of death certificate of Soundarya and advised the petitioners to approach the Civil Court. Aggrieved by the same, the petitioners are before this Court with the present writ petition for the above stated relief.

3. Learned counsel for the petitioners submitted that based on the petitioners' application seeking legal heir certificate, the Revenue Inspector and the Village Administrative officer conducted a detailed enquiry and they satisfied themselves that the petitioners are the legal heirs of the deceased Janakiraman and accordingly submitted a report to that effect. However, the respondent refused to issue a legal heir certificate to the petitioners for want of death certificate of the second petitioner's mother. Learned counsel for the petitioners further submitted that since the mother of the second petitioner died on 03.05.1977, it is very difficult for the petitioners to get her death certificate at this length of time. Therefore, he prayed for a direction to the respondent to issue a legal heir certificate to the petitioners based on the enquiry conducted by the Revenue Inspector and the Village Administrative Officer.

4. Per contra, learned Government Advocate appearing for the respondent seriously opposed the relief sought for in this writ petition.

5. Heard both sides and perused the materials placed before this court.

6. A perusal of the impugned order would reveal that the only document sought for by the respondent for issuance of legal heir certificate of the deceased Janakiraman to the petitioners, is the death certificate of the second petitioner's mother Soundarya. Since the second petitioner's mother died on 03.05.1977, it is not possible for the petitioners to get her

death registered and obtain her death certificate. In such circumstances, I am of the opinion that the petitioners herein can work out their remedy by getting appropriate orders from the First Class Magistrate for registration of the death of the second petitioner's mother, as per Section 13(3) of the Registration of Births and Deaths Act, 1969. For better appreciation, the said provision is extracted hereunder:

"Section 13(3): Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate, after verifying the correctness of the birth or death and on payment of the prescribed fee."

7. In such view of the matter, the petitioners are at liberty to approach the First Class Magistrate for appropriate orders to register the death of the second petitioner's mother and thereafter approach the authority concerned to get the death certificate of the second petitioner's mother. On production of the death certificate, the respondent is directed to conduct enquiry and dispose of the petitioners' application with regard to issuance of legal heir certificate to the petitioners, in accordance with law, as expeditiously as possible.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Tahsildar,
Thirukazhukundram Taluk,
Kancheepuram District.

+ 1 cc to Mr.S.Udhayakumar, Advocate Sr 22649

KR/9/6/16

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