

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.34829 of 2016

R.Saravanan

... Petitioner

Versus

The Tahsildar,
Tambaram Taluk,
Tambaram,
Kancheepuram District.

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus, to call for the records of the respondent relating to the order in Na.Ka.No.1800/2016/A5 dated 28.06.2016 to quash the same and to issue consequential directions to the respondent to reconsider the matter and issue relationship certificate to the petitioner consequent to the death of Thiru.K.Raghavendran, younger brother of the petitioner on 14.12.2015.

For Petitioner : M/s.G.Punniakotti

For Respondents: Mr.P.Chinnadurai,
Government Advocate

ORDER

The present writ petition has been filed challenging the memo of the respondent dated 28.06.2016, in and by which, the respondent has informed the petitioner that since he is not the Class I legal heir of the deceased Raghavendran, he has to establish his relationship of the deceased before the Civil Court by filing a suit and that he could not issue a Relationship Certificate as prayed for.

2. According to the petitioner, his father Rajendran died on 15.10.2013 leaving behind him two daughters and three sons. The petitioner and the deceased Raghavendran are one of the sons born to the father of the petitioner. In support of the same, the petitioner has also produced the legal heir certificate

dated 10.01.2014 certifying that the petitioner's father died on 15.10.2013 leaving behind the petitioner, the deceased Raghavendran and three others as his legal heirs. According to the petitioner, the deceased Raghavendran is his younger brother and he died as a bachelor on 14.12.2015 leaving behind his two sisters and two brothers as legal heirs. On the death of Raghavendran, the petitioner submitted an application to the respondent seeking to issue Relationship Certificate to the effect that the petitioner is the elder brother of the deceased Raghavendran. On the basis of such application, the Revenue Inspector, Chitlapakkam has also published a notice dated 12.04.2016 in the Village through the Village Administrative Officer and called for objections, if any, from the public. According to the petitioner, on the basis of such publication, no one has objected to issuance of the Relationship Certificate in favour of the petitioner. However, the respondent, without considering the same, has directed the petitioner to approach the Civil Court since he is not the class I heir of the deceased.

The learned counsel for the petitioner would contend that the deceased Raghavendran is his brother. The deceased was employed in a private company and the petitioner wanted to claim the provident fund amount standing to the credit of the deceased. Therefore, the petitioner has submitted the application to the respondent seeking to issue Relationship Certificate, but it was erroneously rejected by the respondent on the ground that the petitioner is not the Class I legal heir to the deceased and that the petitioner has to only approach the Civil Court for getting such certificate. The learned counsel for the petitioner brought to the notice of this Court an identical order dated 09.09.2016 passed by this Court in WP No. 31529 of 2016 wherein this Court remitted the matter back to the respondent therein for granting an opportunity to the petitioners therein and to pass appropriate orders, on merits and in accordance with law. Hence, he prayed for the same order to be passed in this writ petition as well.

3. The learned Government Advocate appearing for the respondent has no objection for passing such an order in this writ petition as well.

4. A copy of the order dated 09.09.2016 is produced before this Court by the learned counsel for the petitioner. In the order dated 09.09.2016, this Court has passed the following order:

"The present Writ Petition challenges the rejection of the legal heir certificate on the ground that if there is no class-I legal heir, there is no provision for granting legal heirship certificate for class-II legal heir as per the Hindu Law.

2. The sister of the petitioners Parvatha Kumari died on 07.12.2014, as an unmarried spinster. The petitioners applied for legal heir certificate of their sister with all necessary documents. The respondent conducted a detailed enquiry and passed the present impugned order. Hence, the present writ petition has been filed to quash the order of the respondent and direct the respondent to issue legal heir certificate to the petitioners.

3. Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondent.

4. The learned Special Government Pleader submitted that the claim of the petitioners has to be ascertained and for that purpose, the petitioners have to produce all necessary documents to prove that they are the legal heirs of the deceased.

5. The rejection of the application of the petitioners cannot be rejected merely on the ground that petitioners are not coming under the class-I legal heir and the petitioners have to be given an opportunity to prove their case by producing all relevant documents.

6. Hence, the matter is remitted back to the respondent for granting one more opportunity to the petitioners and pass appropriate orders, on merits and in accordance with law and the writ petition is disposed of accordingly. No costs."

In the light of the above, the present writ petition is disposed of in terms of the order dated 09.09.2016 passed in WP No. 31529 of 2016. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Tahsildar,
Tambaram Taluk,
Tambaram,
Kancheepuram District.

+1cc to M/S.G.Punniakoti, Advocate Sr.57014
+1cc to the Government Pleader Sr.56934

W.P.No.34829 of 2016

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