

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.3727 of 2016

V.Babu

.. Petitioner

Vs.

1.The Collector
Chennai District
Chennai.

2.The Tahsildar
Ayanavaram Taluk
Ayanavaram, Chennai-23.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus to direct the respondents to issue legal heir certificate of petitioner's father deceased Venkatappan.

For Petitioner : M/s.G.Mohanarangan

For respondents : Mr.S.Navaneethan, AGP.

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come up with the present writ petition for issuance of writ of mandamus to direct the respondents to issue legal heir certificate of petitioner's father deceased Venkatappan.

3.The petitioner father namely Venkatappan died intestate on 26.08.1994 leaving behind his wife, sons and daughters namely (i)K.V.Kanthamma/wife (ii)K.V.Venkararamanan/son (iii)K.v.Vijayabaskar/son (iv)V.Babu/son (v)V.Vijayakumar/son (vi)V.Srinivasan/son (vii)Jayalakshmi/daughter (viii)Saraswathy/daughter and (ix) Nageshwari/daughter as his only legal heirs succeeded the property.

4.The above named legal heirs intended to partition of the property in order to develop individually. In order to present

deed of partition before the Registration Authority, they made an application before the second respondent for grant of legal heir certificate by application dated 19.11.2014. But the request of the petitioner was not considered, solely on the ground that the petitioner father died 20years back. Thus, the request of the petitioner was rejected. In this regard, the petitioner filed OS.No.7168 of 2015 on the file of the XI Assistant Judge, City Civil Court, Chennai for declaration to declare the above named persons as legal heirs of the deceased Venkatappan.

5.The learned counsel for the petitioner relied on the circular dated 28.11.1991 issued by the Special Commissioner and Secretary which makes the position very clear that there is no limitation for making the application for applying the legal heir certificate. Hence, the petitioner has come forward with this writ petition.

6.The learned counsel for the petitioner also relied upon the said circular dated 28.11.1991 and order of this Court made in WP.(MD).No.16233 of 2014 dated 25.09.2014, the relevant portion of the said order is extracted hereunder :

"5.In fact, this court in the said WP.(MD).11709 of 2009 by order dated 16.11.2009, made it further clear that there is no limitation for seeking the relief of legal heirship certificate. On the basis, the rejection of all the requests on the ground of limitation, was considered by this court and hence, it is not proper on the part of the Tahsildar again to reject any application filed by the parties on the ground of delay. Besides a circular issued by the Special Commissioner and Secretary dated 28.11.1991, in Letter (Nilai) No.4534 also makes the position very clear that there is no limitation for making the application for getting the legal heirship certificate. It is pertinent to extract herein a relevant portion of the said circular as follows:

A mere reading of the above circular issued by the Special Commissioner and Secretary to Government mandates every Tahsildar to issue to the legal heirship certificate after obtaining proper report from the subordinate officers. Therefore, when the issue for issuance of legal heirship certificate has been clearly settled by this Court by saying that there is no limitation for making application for obtaining legal heirship certificate, the concerned Tahsildar cannot shirk their responsibility by simply directing the parties to approach the Court.

7.Following the same, the similar order has to be passed in this writ petition.

8.In view of the above direction, I am of the opinion that the limitation cannot be a ground to reject the application for issuance of legal heirship certificate.

9.This Court, taking into consideration the limited scope of the prayer sought for by the petitioner and without going into the merits of the same, directs the petitioner to submit a fresh representation to the second respondent by enclosing a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such representation, the second respondent shall conduct a detailed enquiry and issue legal heirship certificate of petitioner's father deceased Venkatappan who died intestate on 26.08.1994, within a period of eight weeks thereon.

10.The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1.The Collector
Chennai District
Chennai.

2.The Tahsildar
Ayanavaram Taluk
Ayanavaram, Chennai-23.

+1 cc to Mr.G.Mohanarangan Advocate sr.7019
+1 cc to Government Pleader sr.6879

W.P.No.3727 of 2016.

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