

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.6236 of 2016

B.Udhayasankar

..petitioner

Vs

1 The District Collector
Vellore Collectorate Office Vellore

2 The Thashildar
Ambur Taluk Office Ambur

3 The Village Administrative Officer
Ambur VAO Office, Nethaji Road
Ambur

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus to direct the second respondent to dispose the legal heirship application dated 26.12.2015 by conducting the discreet enquiry and issue a legal heirship certificate of the petitioner's maternal grand mother named (late) Amminiammal.

For Petitioner : Mr.P.Ganesan

For respondents: Mr.P.Sanjay Gandhi, AGP.

O R D E R

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 second respondent to dispose the legal heir ship application dated 26.12.2015 by conducting the discreet enquiry and issue a legal heir ship certificate of the petitioner's maternal grand mother named (late) Amminiammal.

3.The petitioner submits that his maternal grand mother late Amminiammal filed suit in OS.No.4710 of 1996 (transferred

CS.No.429 of 1988) against one Devaki who is the first wife of petitioner's uncle Govindaraj for partition, separate possession and for permanent injunction stating that Govindaraj purchased the property by way of an allotment through Tamil Nadu Housing Board. The Ammaniammal being the legal heir of her son Govindaraj would get half share in the property. Ammaniammal died on 09.07.1993, leaving behind her four sons and children of her predeceased daughter late Pushparani. The petitioner's mother Pushparani died on 18.05.1997, leaving behind her three children (i)Udhayashankar/Petitioner (ii)Vijayalakshmi and (iii) Rajeswari. After the death of Ammaniammal, her four sons were impleaded in the above suit and purposely omitted to include the children of Pushparani predeceased daughter of Ammaniammal.

4.The petitioner's first sister Vijayalakshmi was given in marriage to one late Thangaraj and second sister was given in marriage to one P.Sathyamoorthy. After the death of Thangaraj who is one of the son of late Ammaniammal, the petitioner's sister Vijayalakshmi and her children were impleaded in the said suit as the legal heirs of Thangaraj. Preliminary decree was passed on 17.06.2003 in the said suit. The other side have filed AS.No.28 of 2004 on the file of VI Additional Judge, City Civil Court, Chennai, the same was allowed on 17.11.2004, by remitting the matter back to the trial Court. The petitioners uncle filed CMA.No.2534 of 2005 before this Court, against the order of remand and the same was allowed by this Court on 12.02.2008. In compliance to the order of this Court, AS.No.28 of 2004 was taken up for hearing and allowed in part on 16.06.2008 and ordered the petitioner's uncles are not entitled to get share on the basis of the Will.

5.In all the Court proceedings, the petitioner's uncle have entirely suppressed the legal heirs of the predeceased daughter of late Pushparani who is the daughter of Ammaniammal and sisters of the petitioners viz., Vijayalakshmi and Rajeswari are the legal heirs of predeceased daughter of Ammaniammal.

6.Earlier, the petitioner filed WP.No.29376 of 2015 before this Court to dispose of the application/representation dated 13.01.2015 by conducting discreet enquiry and issue revised legal heirship of his maternal grandmother late Ammaniammal, this Court on 18.09.2015 disposed of the writ petition by giving a direction to the second respondent to dispose of the petitioner representation dated 13.01.2015. In pursuant to the order of this Court, the second respondent conducted detailed enquiry and identified 12 members of the family as the legal heirs of late Amminiammal vide proceedings No.Ka.C2/8669/2015 dated 07.12.2015 and not issued any legal heirship certificate. The petitioner on 26.12.2015 along with required documents applied for legal heir certificate, but till date the respondent has not issued any certificate to the petitioner, hence the petitioner filed the present writ petition.

7. Heard the submissions of learned counsel appearing for the petitioner and the learned Additional Government Pleader who accepts notice on behalf of the respondents.

8. Considering the facts and circumstances, this Court, without going into the merits of the same, directs the second respondent to dispose the petitioner's representation dated 26.12.2015 on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any.

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

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

tsh

To

- 1 The District Collector
Vellore Collectorate Office Vellore
- 2 The Thashildar
Ambur Taluk Office Ambur
- 3 The Village Administrative
Officer Ambur VAO Office Nethaji Road
Ambur

1 cc to Government Pleader, Sr. 11058

W.P.No.6236 of 2016.

WEB COPY

ALA (CO)
kk 9/3