

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6972 of 2016

D.Viswanthan

... Petitioner

Vs.

The District Collector
Collectorate of Chennai
Singaravelar Maaligai
62, Rajaji Salai,
Chennai-1.

2.The Tahsildar
No.370 Corporation Zone Office
Anna Salai, Richards Park
Saidapet, Chennai-15
(Opp to Panagal Buildings).

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus to call for the records of the order of second respondent dated 24.06.2015 bearing Na.Ka.No.D1/9323/2014 to quash the same and direct the second respondent to consider the petitioner application No.1878/2014 and issue the legal heirship certificate to the petitioner as Class II Legal heir of the deceased Mr.Anantharaman.

For Petitioner : Mr.N.Jayakumar
For respondents : Mr.P.Karthikeyan,
Government Advocate

ORDER

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

2.The petitioner has come forward with the present Writ Petition seeking for issuance of certiorarified mandamus to call for the records of the order of second respondent dated 24.06.2015 bearing Na.Ka.No.D1/9323/2014, to quash the same and direct the second respondent to consider the petitioner application No.1878/2014 and issue the legal heirship

certificate to the petitioner as Class II Legal heir of the deceased Mr. Anantharaman.

3. The petitioner's brother Anantharaman died on 07.03.2014 leaving behind the petitioner as the only legal heir. The Anantharaman wife predeceased him long back, without any issues. The petitioner has taken care of his brother till his death and his brother's name was shown in the family card of the petitioner. The petitioner submitted an application in Sl.No.1878 of 2014 dated 20.04.2014 in the office of the second respondent. The petitioner submitted a petition dated 20.10.2014 before the first respondent and the first respondent has forwarded the same to the second respondent with a direction to consider the petition. Even after the instruction from the first respondent, the second respondent has not considered the same. The petitioner issued a legal notice dated 17.06.2015 to both the respondents calling upon the second respondent to issue a legal heir certificate. In reply, the second respondent without conducting any enquiry sent a letter dated 24.06.2015 informing that the deceased Anantharaman has no direct legal heirs.

4. The petitioner applied for the legal heir certificate in the status of brother of the deceased as Class II Legal heir of the deceased Anantharaman. The petitioner further submits that he is 83 years old and suffering with serious ailments, due to inaction on the part of the respondents, the petitioner filed the present writ petition.

5. Today, when the writ petition is taken up for consideration, the learned counsel for the petitioner submitted an order of this Court in identical circumstances in WP.(MD). No.13655 of 2012 dated 27.02.2013 Madurai bench, wherein the difficulty to identify the members of the Class-II heirs cannot be a reason to reject the request for issuance of legal heir certificate. By observing so, the impugned order in the said writ petition was set aside and directed the respondents therein to conduct enquiry.

5. Heard the submissions of learned counsel appearing for the petitioner and the learned Government Advocate who accepts notice on behalf of the respondents.

6. Following the judgment passed in W.P.(MD) No.13688 of 2012, this Court is inclined to set aside the order dated 24.06.2015 passed by the second respondent. Accordingly, the same is set aside. The petitioner is directed to produce all the required documents to the respondents which are necessary to conduct enquiry, with regard to the issuance of Class-II legal heir certificate by the respondents. On receipt of such documents, the respondents are directed to conduct enquiry on the petitioner's application in Sl.No.1878 of 2014 dated 20.04.2014

on merits and in accordance with law, after affording opportunity of personal hearing to the petitioner as well as to the other necessary parties, if any. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner. The respondents are at liberty to ask for documents which are necessary to conduct enquiry and further directed to complete the said exercise within a period of eight weeks.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
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Singaravelar Maaligai
62, Rajaji Salai,
Chennai-1.

2.The Tahsildar
No.370 Corporation Zone Office
Anna Salai, Richards Park
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(Opp to Panagal Buildings).

+1cc to M/s. N. Jayakumar, Advocate, S.R.No.11898

+1cc to the Government Pleader, S.R.No.12192

RSK(CO)
EU(10/03/2016)

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