

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 23.08.2016****CORAM****THE HONOURABLE MR. JUSTICE M. VENUGOPAL****W.P (MD) No.15574 of 2016**

Sumathi

... Petitioner

Vs.

The Tahsildar,
Madurai North Taluk,
Madurai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order bearing Mu.Mu.No.8703/2016/C2, dated 10.08.2016 passed by the Respondent as illegal and consequently directing the Respondent to issue legal heir certificate.

For Petitioner	: Mr.K.R.Singaravadivel
For Respondent	: Mr.S.Kumar, Additional Government Pleader

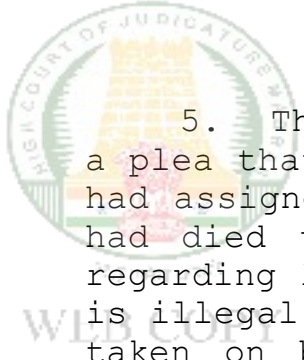
O R D E R

Heard both sides. By consent, the main Writ Petition itself is taken up for final disposal.

2. No counter-affidavit is filed on behalf of the Respondent.

3. According to the Petitioner, her husband expired on 13.01.2004 leaving herself and her daughter as legal heirs. In fact, her husband's death was registered on 22.01.2004 before the Tahsildar, Madurai North Taluk Office. Subsequently, she obtained her husband's Death Certificate on 13.04.2004 from the Madurai North Taluk Tahsildar's office.

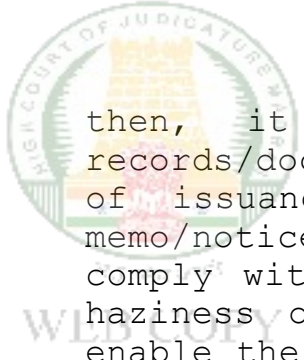
4. The Petitioner filed an application seeking to obtain legal-heir certificate before the Tahsildar, Madurai North Taluk, Madurai on 18.01.2016. However, her application was dismissed by the Tahsildar, Madurai North Taluk, based on the reason that twelve years had elapsed from the date of her husband Prem Kumar's death and as such, the details regarding the legal heirs could not be ascertained.



5. The Learned Counsel for the Petitioner emphatically takes a plea that the Respondent in the impugned order, dated 10.08.2016 had assigned a reason to the effect that the Petitioner's husband had died twelve years ago and on account of that, the details regarding legal heirs, could not be ascertained etc., and the same is illegal in the eye of Law. In this regard, the specific stand taken on behalf of the Petitioner is that the delay of twelve years cannot be pressed into service against the Petitioner especially in respect of issuance of legal-heir certificate.

6. Considering the fact that the Petitioner is only seeking a legal-heir certificate from the Respondent/Tahsildar, Madurai North Taluk, Madurai, this Court is of the considered view that the purported delay twelve years in making the application from the date of death of the Petitioner's husband Prem Kumar, cannot be a cementing platform or a reason so as to enable the Respondent to pass a negative order against the Petitioner, in the considered opinion of this Court. As a matter of fact, there is no legal impediment in filing of an Application seeking for issuance of Legal Heir Certificate after a lapse of twelve years, as opined by this Court. To put it precisely, there is no Law of Limitation for filing of Application praying for issuance of Legal Heir Certificate from the competent Revenue Authority concerned, in the considered opinion of this Court. Therefore, the plea of 'Waiver or Acquiescence', cannot be taken on the side of the Respondent/Revenue Authority. In short, the said reason assigned by the Respondent in the impugned order, dated 10.08.2016, does not stand a moment scrutiny in the eye of Law. Therefore, this Court to secure the ends of justice interferes with the said order, dated 10.08.2016 passed by the Respondent/Tahsildar, Madurai North Taluk, Madurai and sets aside the same. Consequently, the Writ Petition succeeds.

7. In the result, the Writ Petition is allowed leaving the parties to bear their own costs. Resultantly, the impugned order, dated 10.08.2016 passed by the Respondent/Tahsildar, Madurai North Taluk, Madurai, in reference Mu.Mu.No.8703/2016/C2, is set aside by this Court for the reasons assigned in the present Writ Petition. The matter is remitted back to the Respondent/Tahsildar, Madurai North Taluk, Madurai, to pass necessary fresh orders by making an enquiry with the Petitioner and to consider her petition, dated 18.01.2016 with a open, fair mind and the order is to be passed in a dispassionate and a speaking fashion (Of course after adhering to the Principles of Natural Justice by issuing notice to the Petitioner and others concerned if any, who are interested in the subject matter in issue). The above exercise shall be carried out by the Respondent/Tahsildar, Madurai North Taluk, Madurai, within a period of four weeks from the date of receipt of a copy of this order. In case, the Respondent is in need of any copy of relevant records/certified copy of documents, as the case may be,



then, it is open to the Respondent to call for such records/documents from the possession of the Petitioner by means of issuance of memo/notice and soon after receipt of such memo/notice, it is incumbent on the part of the Petitioner to comply with the plea/request made by the Respondent without any haziness or hesitation, as expeditiously as possible, so as to enable the Respondent/Tahsildar, Madurai North Taluk, Madurai, to do the needful, within the time adumbrated by this Court, as stated supra. Needless for this Court to make a significant mention that the Petitioner is to render her assistance and instinted co-operation to the Respondent in the subject matter in issue.

Sd/
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar,
Madurai North Taluk,
Madurai.

+1 cc to MR.K.R.SINGARAVADIVEL, Advocate SR.NO.46509

+1 cc to Special Government Pleader SR.No.46745

W.P(MD)No.15574 of 2016
23.08.2016

SMA/SS-2/01/09/2016 :3P/4C