



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) No.18215 of 2016

Subburaj

... Petitioner

Vs.

The Tahsildar,
Madurai South Taluk,
Madurai.

... Respondent

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.2065/16/A3 dated 15.04.2016 and quash the same and consequently, direct the respondent to issue legal heirship certificate to the petitioner forthwith

For Petitioner : Mr.J.Anandkumar

For Respondent : Mr.K.P.Krishnadoss G.A.,

ORDER

This writ petition has been filed challenging the order passed by the respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir certificate.

2.According to the petitioner, he is the brother of one Balakrishnan, a unmarried person and died on 24.11.2015. During his life time, he was living with the petitioner and their parents also died. After his death, the petitioner along with his four brothers and three sisters filed an application before the respondent for issuance of legal-heir certificate. Based on the application, an enquiry was also conducted and statement was also obtained by the Revenue Inspector. Subsequently, the respondent-Tahsildar passed an order rejecting his application on the ground that since the persons claiming legal-heir certificate, are not the direct legal-heirs of the deceased Balakrishnan, they have to approach the Civil Court for getting the certificate. Challenging the said order, the present writ petition has been filed.

3.The respondent also filed a counter stating that as per the guidelines issued by the Government in Government Letter (Rt) No.1534 Revenue Department, dated 28.11.1991 the Tahsidhar has empowered to issue legal-heir certificate only to the direct



legal-heir. Since the petitioner is not a class-I legal-heir, he should necessarily approach the civil court for getting orders.

4. I have considered the rival submissions.

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5. Admittedly, the petitioner is not the class-I legal heirs of the deceased Balakrishnan, being the brothers and sisters, they are only class-II legal-heirs. However, as claimed by the petitioner, the deceased is a bachelor and he has no legal-heir except his brothers and sisters. Since in the absence of any other class-I legal-heir, there is no impediment for the respondent/Tahsildar to issue legal-heir certificate as per the guidelines issued by the Government, which reads as follows:-

"1. As per the present procedure the Tahsildar has to issue the legal heirship certificate to the direct heir.

2. The Tahsildars should avoid issuing legal heirship certificate in respect of the following items mentioned below, apart from the direct heirs and the applicants should be instructed to get the certificate through the Civil Court.

a. If there are more than one wife/husband for the deceased, and even if they have children and if it is evident that there is a partition dispute among them.

b. When there is a condition to issue heir certificate for the person, who has left the family for seven years by deeming that person to be dead.

c. If a person is residing in other District, and does not have the residence within the limits of the Taluk and if he is not in possession of a house or property, and does not attend the enquiry to give his statement to the Tahsildar.

d. If the deceased does not have children and brings up other children."

6. Even as per the guidelines, the respondent/Tahsildar instructed to avoid issuing legal-heir certificate falling under the above four categories only. Since the petitioner is not fall under anyone of the above categories, the respondent/Tahsildar is directed to consider his application and pass orders, after enquiry and verifying the fact whether any other legal-heirs are available for the deceased, within a period of 12 weeks from the date of receipt of a copy of this order.



With the above direction, this writ petition is disposed. No costs.

Sd/
Assistant Registrar(Records)

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Sub Assistant Registrar

To

The Tahsildar, Madurai South Taluk, Madurai.

+1cc to M/s.J.Anandkumar, Advocate, in SR No.61017.

+1cc to Special Government Pleader in SR.No.61405.

W.P. (MD) No.18215 of 2016
17.10.2016

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