IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM:
THE HONOURABLE MR. JUSTICE M. SUNDAR

W.P.No.20152 of 2015

1. K.M.Lakshmi
2. K.Vijaya
3. K.Padma
4. K.Rajagopal
5. K.Vimala
6. K.Srinivasan ... Petitioners

vs.

1. The District Collector,
   Office of the District Collector,
   Rajaji Salai,
   Chennai 600 001.

2. The Tahsildar,
   Office of the Tahsildar,
   Pursawalkam Circle,
   Chennai 600 003.

3. The Tahsildar,
   Office of the Tahsildar,
   Fort-Tondiarpet Taluk,
   Chennai.

4. The Tahsildar,
   Office of the Tahsildar,
   Aminjikarai,
   Chennai 600 107.

5. B.V.Raghavachari ... Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the U6/29220/2013, dated 25.04.2015 on the file of the 1st respondent and quash the same as illegal, mechanical, arbitrary, against the principles of natural justice and unsustainable in law and direct the 2nd respondent to issue the legal heirs Certificate to the petitioner.

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For Petitioners : Mr.M.Sunil Kumar

For Respondents 1 to 4 : Mr.M.Dig Vijay Pandian,
Additional Government Pleader

For 5th Respondent : Mr.G.Thiyagarajan

O R D E R

Mr.M.Sunil Kumar, learned counsel is present on behalf of the writ petitioners, Mr.M.Dig Vijay Pandian, learned Additional Government Pleader is present on behalf of respondents 1 to 4 and Mr.G.Thiyagarajan, learned counsel is present on behalf of the 5th respondent.

2. The matter pertains to Legal Heir Certificate of one K.M.Chellammal, who died way back on 06.11.1965.

3. It is not in dispute that Chellammal was wife of one Gopalan (Gopalachariar) and that she had two sons and four daughters. One son died a bachelor issueless. One daughter died a spinster issueless. Therefore, the children of one son and three daughters are now alive at this distant point of time.

4. One of the two sons, who was married and has issues, is K.M.Devanathan. The three daughters who were married and who have issues are Soundaravalli, Maragadavalli and Janaki.

5. The writ petitioners herein applied for Legal Heir Certificate and the 3rd respondent/Tahsildar (Tondiarpet Taluk) issued Legal Heirship Certificate dated 22.10.2012. In this Legal Heir Certificate, seven persons have been shown as Legal Heirs of Chellammal. These seven are wife, sons and daughters of Devanathan, the lone married son of Chellammal, the other son having died issueless as stated above.

6. Thus aggrieved, the 5th respondent herein, on coming to know about the Legal Heir Certificate, moved the District Collector pleading that the other heirs of Chellammal through her three daughters have been completely left out in this Legal Heir Certificate.

7. The District Collector, who is the 1st respondent herein, conducted an enquiry and passed an order on 25.04.2015 vide Ref.No.U6/29220/2013, holding that the grandchildren of Chellammal through her three daughters have not been included in

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the Legal Heirship Certificate. On this basis, the 1st respondent/District Collector directed seizure of the abovesaid Legal Heirship Certificate and cancellation of the same. The writ petitioners, who are sons and daughters of the above said Devanathan have filed the instant Writ Petition calling in question the order dated 25.04.2015 passed by the 1st respondent/District Collector.

8. The Writ Petition was admitted on 08.07.2015 and an interim order of interim stay staying the operation of the impugned order of the Collector was also granted by this Court vide order dated 08.07.2015 in M.P. No.1 of 2015 in the above Writ Petition. The 5th respondent has now moved a petition to vacate the order of interim stay.

9. All the three learned counsel, agreed to taking up and disposing of the main matter.

10. It is the submission of the learned counsel for the writ petitioners that while applying for Legal Heir Certificate, the writ petitioners have to necessarily apply along with their cousins, who are the other branches of Late Chellammal and this causes considerable difficulty, as they are scattered at various places.

11. Learned Additional Government Pleader would submit that Chellammal died way back on 06.11.1965 and therefore, the Revenue authorities also will have considerable difficulty in identifying the legal heirs correctly.

12. Presented with this situation, learned counsel for the writ petitioners (writ petitioners are the wife and children of K.M.Devanathan) and the learned counsel for the 5th respondent (B.V.Ragavachari), who is the grandson of Chellammal through Soundaravalli, agreed to make individual applications, which shall be dealt with jointly by the 3rd respondent. It is also submitted by the learned counsel for the writ petitioners as well as the learned counsel for the 5th respondent that their respective clients would give the details of other heirs of Chellammal, being their second cousins.

13. Along with the applications of the writ petitioners as well as the application of the 5th respondent, details of other legal heirs shall be furnished with their address, as available.

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14. The above shall be done within two weeks from the date of receipt of a copy of this order.

15. On such submission of application, the 3rd respondent shall cause a thorough enquiry to be made through the Revenue Inspector about the correctness of the details furnished by the writ petitioners as well as the 5th respondent and include their names in the Legal Heir Certificate. It is open to the Tahsildar to include any other Legal Heir, if it comes to his notice that there is some other Legal Heir of Chellammal, other than the ones given by the writ petitioners as well as the 5th respondent.

16. The Tahsildar shall independently verify the Legal Heirs list given by the writ petitioners as well as the 5th respondent through the Revenue authorities, without insisting on production of any documents together with geneology chart with regard to the cousins of writ petitioners and the 5th respondent. However, it will be open to the Tahsildar to insist on production of documents with regard to the applicants themselves.

17. After completing the above exercise, the 3rd respondent/Tahsildar shall issue a fresh Legal Heir Certificate including all the legal heirs of Chellammal (as can be ascertained) without restricting it to any one branch as was done earlier.

18. The above exercise shall be completed and Legal Heir Certificate shall be issued individually to each of the applicants. This entire exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

19. In the light of the order that has been passed above, the order of the District Collector, dated 25.04.2015 (impugned order) is sustained to the extent that it has cancelled the Legal Heir Certificate, dated 22.10.2012 issued by the 3rd respondent. In other respects, the Tahsildar shall proceed independent of any observation that may have been made by the Collector. In other words, the other observations in the impugned order stand expunged. As a consequence and sequel, the Legal Heir Certificate dated 22.10.2012 issued by the 3rd respondent is set aside.

20. It is also noticed that there is a Civil Suit being O.S.No.1953 of 2014 pending on the file of the XV Additional City Civil Court, Chennai. It is stated that the pleadings are

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completed in the said Partition Suit. Any observation that may be made in this Writ Petition shall not be pressed into service in the suit.

21. It is made clear that the Trial Court will proceed with the suit uninfluenced and untrammelled by the observations made in this Writ Petition, as this order is passed for the limited purpose of issuing Legal Heir Certificate including all the Legal Heirs of Late Chellammal.

This Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected M.P.No.1 of 2015 and W.M.P.No.36915 of 2016 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To:

1. The District Collector,
   Office of the District Collector,
   Rajaji Salai, Chennai 600 001.

2. The Tahsildar,
   Office of the Tahsildar,
   Pursawalkam Circle,
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   Office of the Tahsildar,
   Fort-Tondiarpet Taluk, Chennai.

4. The Tahsildar,
   Office of the Tahsildar,
   Aminjikarai, Chennai 600 107.

+1cc to Mr.M.Sunil Kumar,Advocate sr.11064

+1cc to M/s.G.Thiagarajan,Advocate sr.11238

+1cc to Government Pleader sr.11141
+1cc to Mr.M.Sunil Kumar,Advocate sr.11064(15/3/2017)

Order in
W.P.No.20152 of 2015

rk(co)
ss(6/3/2017)

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