

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DURAI SWAMY

W.P.No.19541 of 2017

1. R.S.Blachandran
2. R.S.Muralidharan
3. R.S.Balasubramanian

[Petitioners]

Vs

The Tahsildar,
O/o Mambalam-Guindy Taluk,
Mambalam-Guindy, Chennai 78

[Respondent]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari and Mandamus, to call for the records relating to the order passed by respondent dated 27.04.2017 in his proceeding in Mu.Mu(E1)/2737/2017 is illegal and quash the same and consequently direct respondent to issue legal heir certificate in the name of Class II legal heirs the petitioners herein after making necessary enquiry.

For Petitioners : Mr.M.Swaminathan

For Respondent : Mr.Era Premnath, GA

ORDER

Mr.Era Premnath, learned Government Advocate, takes notice for the respondent and by consent the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioners have filed the above writ petition to issue a writ of certiorarified mandamus to call for the records of the order dated 27.04.2017 and to quash the same and consequently direct the respondents to issue legal heirship certificate in the name of Class II legal heirs viz., the petitioners herein, after making necessary enquiry.

3. It is the case of the petitioners that their elder brother viz., R.S.Sivaramakrishnan had died on 04.11.2016 as a Bachelor. His property stands in his name, which needs to be changed in the name of the petitioners. Therefore, the petitioners approached the respondent for the issuance of the legal heirship certificate and made a representation by way of a letter dated 12.04.2017. The respondent, rejected the representation of the petitioners by proceedings dated 27.04.2017 on the ground that there is no Class I heir and the petitioners are only Class II heirs and hence, they are not entitled for legal heirship certificate. Challenging the said order, the petitioners have filed the writ petition.

4. It is not in dispute that the petitioners are not the Class I heirs of the deceased R.S.Sivaramakrishnan. The petitioners are the brothers of the deceased and are Class II legal heirs. The petitioners have stated that the deceased had died as a Bachelor and in the absence of Class I legal heirs, there is no impediment for the respondent/Tahsildar to issue legal heirship 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 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”.

5. Even as per the guidelines, the respondent/Tahsildar had been instructed to avoid issuing legal heir certificate falling under the above four categories only. Since the petitioners do not fall under any one of the above

categories, the respondent/Tahsildar is directed to consider their application and pass orders, within a period of eight weeks from the date of receipt of a copy of this order, after conducting enquiry and verifying the fact whether any other legal heirs are available for the deceased.

With these observations, the writ petition is disposed of. No costs.

05.09.2017

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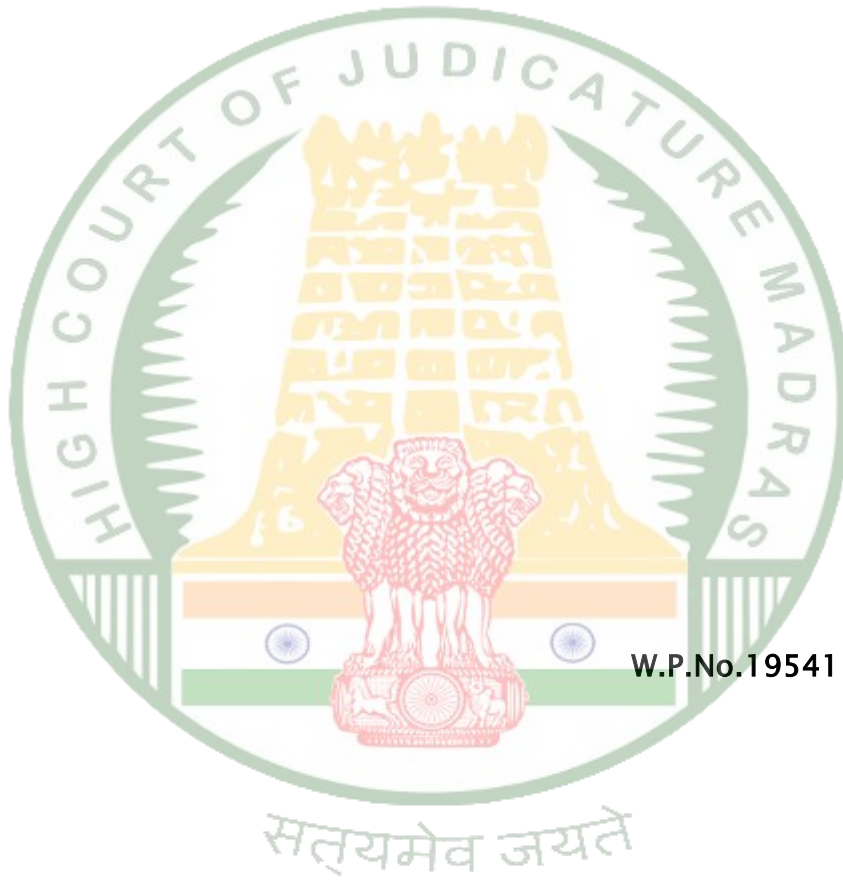
Note: Issue order copy on 07.09.2017

To
The Tahsildar,
O/o Mambalam-Guindy Taluk,
Mambalam-Guindy, Chennai 78



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M.DURAISWAMY,J.,
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