



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 01.09.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P (MD) No.15128 of 2017

MuthuKadir Papa Nasa Thiraviam

..Petitioner

Vs

The Tahsildar,
Tirunelveli Tahsildar Office,
Tirunelveli.

..Respondent.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the Tahsildar, Tirunelveli passed in O.Mu.A2/3197/17, dated 09.06.2017 and to quash the same and consequently to direct the respondents to issue a Legal Heir Certificate to the Petitioner for the deceased Kanakasabapathy, who passed away on 31.10.1993, the brother of the Petitioner's father.

For Petitioner :M/s.K.Abiya

For Respondent :Mr.C.Selvaraj
Spl.Govt.Pleader

ORDER

Challenging the order of the respondent, dated 9.6.2017 in O.Mu.A2/3197/7, the present Writ Petition is filed.

2.Heard Ms.K.Abiya, learned counsel for the Petitioner and Mr.C.Selvaraj, learned Special Government Pleader, appearing for the respondent and perused the materials placed before this Court.

3.The case of the Petitioner is that his maternal uncle (petitioner's father's brother) Kanakasabapathy died as a bachelor on 31.10.1993. After his demise, the Petitioner approached the respondent by filing an application seeking Legal Heirship Certificate on the death of the said Kanakasabapathy. However, the application was rejected on the ground that there is no direct legal heir. Aggrieved over the same, the present Writ Petition is filed.



4.The learned counsel for the Petitioner would submit that the Petitioner is a Clause-II legal heir of the deceased Kanakasabapathy. The learned counsel placing reliance on a Judgment of this Court in **W.P.No.37214 of 2015, dated 7.3.2016 (S.Renuka Devi .vs.The Tahsildar, Mambalam-Guindy Taluk, Chennai-78)** submitted that he is entitled for the Legal Heirship Certificate. In the above judgement, this Court, in similar facts, set aside the order of the Tahsildar, Mambalam-Guindy Taluk, Chennai and directed him to issue a Legal Heirship Certificate.

5.The learned Special Government Pleader would fairly admit that the Petitioner is a Clause-II heir, as per schedule to the Hindu Succession Act and therefore, the respondent can be directed to consider the application afresh in the light of the judgement cited supra.

6.In view of the above facts, this Writ Petition is allowed and the proceedings of the Tahsildar, Tirunelveli in O.Mu.A2/3197/17, dated 09.06.2017 is set aside and the matter is remanded back to the respondent, for fresh consideration .The respondent shall consider the application of the Petitioner afresh and pass orders keeping in mind the decision of this Court in **W.P.No.37214 of 2015, dated 7.3.2016**, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar,
Tirunelveli Tahsildar Office,
Tirunelveli.

+1cc to M/s.K.Abiya, Advocate Sr.No.75950
+1cc to Spl.Government Pleader Sr.No.76683

VSN

VB/SV/MMS/SAR2/28/09/2017/2P/4C

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