



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2017

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM**W.P. (MD) No.13987 of 2016**

WEB COPY

S.Nagarajan

: Petitioner

-vs-

The Tahsildar,
Avudaiyar Kovil & Taluk,
Pudukkottai District.

: Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records from the respondents in his proceedings in Na.Ka.1225/2016/Aa1/, dated 07.06.2016 and to quash the same with a consequential direction to issue the petitioner's legal heir certificate.

For Petitioner : Mr.N.Balakrishnan

For Respondent : Mr.D.Muruganandham
Additional Government Pleader**O R D E R**

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 Muthuvel died on 28.04.2012 as a bachelor. During his life time, he was living with the petitioner and their parents also died. After his death, the petitioner 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 person claiming legal-heir certificate is not the direct legal-heir of the deceased Muthuvel, the petitioner has to approach the civil court for getting the certificate. Challenging the said order, the present petition has been filed.

3.The learned Additional Government Pleader appearing for the respondent would submit that as per the guidelines issued by the Government in Government Letter (Rt) No.1534 Revenue Department, dated 28.11.1991, the Tahsildar was 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 relief.

4. Heard both sides and perused the materials available on record.

5. Admittedly, the petitioner is not the class-I legal heir of the deceased Muthuvel and he is only class-II legal heir as per Section 8 of Hindu Succession Act. It is the specific case of the petitioner that the deceased is a bachelor and he has no legal-heir except the petitioner. The respondent relies on the following guidelines issued by the Government to reject the claim of the petitioner, 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.

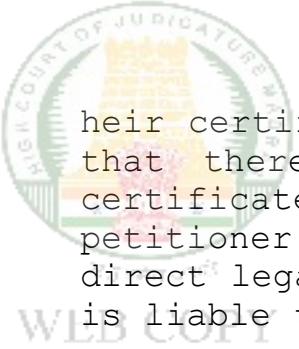
b. When there is a condition to issue heir certificate for the person, who has left the family for seven years by deeming that person to be dead.

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. A plain reading of the guidelines would show that the petitioner does not fall under any of the four categories, which prohibit the respondent from issuing legal heirship certificate.

7. In view of the facts, this court in W.P(MD) No. 18215 of 2016 [Subburaj vs. The Tahsildar, Madurai South Taluk, Madurai], dated 17.10.2016 observed that class II heir is also entitled for legal



heir certificate. Therefore, this court is of the considered view that there is no bar for the respondent to issue legal-heir certificate to the petitioner and the application of the petitioner came to be rejected only on the ground that there is no direct legal heir. Hence, the order impugned in this writ petition is liable to be set aside.

8. In the result, the writ petition is allowed and the impugned order passed by the respondent is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to consider application of the petitioner, dated 02.06.2016 and pass orders, after conducting proper enquiry and verifying the fact whether any other legal-heirs are available for the deceased, within a period of twelve weeks from the date of receipt of the order copy. No costs.

Sd/-

Assistant Registrar (Protocol)

/True copy/

Sub Assistant Registrar

To,
The Tahsildar,
Avudaiyar Kovil & Taluk,
Pudukkottai District.

+1 CC to M/s.N.BALAKRISHNAN, Advocate, SR No. 61419.

ER

PSM/MR/SAR1/30.06.2017/3P/3C

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20.06.2017