



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.697 of 2017

A.Rajendran

... Petitioner

Vs.

The Tahsildhar,
Dindigul West,
Dindigul District,

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the record pertaining to the impugned order passed by the respondent in his proceedings O.Mu.No.9832/2016/A1, dated 13.10.2016 and quash the same and consequently direct the respondent to issue legal heirship certificate to the petitioner.

For Petitioner : Mr.V.Palanichamy
For Respondent : Mr. C.Selvaraj
(Special Government Pleader)

O R D E R

Mr.C.Selvaraj, learned Special Government Pleader takes notice for the respondent.

2. By consent of parties, the main Writ Petition itself is taken up for final disposal.

3. The case of the petitioner is that his father Ankama Naidu died on 16.08.1999 and he was survived by the petitioner and his brother. When the petitioner applied for Legal Heirship Certificate before the respondent, the same was rejected by the respondent by an order dated 13.10.2016, stating that the father of the petitioner had died sixteen years before and therefore, the legal heirs of late.Ankama Naidu, could not be traced.

4. The learned Special Government Pleader appearing for the respondent submits that the appropriate forum for the petitioner, is to approach the civil Court for obtaining Legal Heirship Certificate.



5. I am not in agreement with the submissions made by the learned Special Government Pleader, in view of the fact that the respondent, ought to have considered the petitioner's application, on the basis of the details furnished in the application as well as by obtaining necessary affidavits from the legal heirs. When he is unable to trace the legal heirs of the deceased, it is the bounden duty of the respondent to act with the machinery or subordinates and he cannot avoid his duty by stating that the legal heirs of the deceased could not be traced. Such an action would amount to dereliction of his duty.

6. In identical circumstances, this Court in various orders, have observed that the respondent cannot deny the issuance of Legal Heirship Certificate on the ground that since the death of a person occurred before a considerable period and the legal heirs could not be traced and the same cannot be a reason for rejection of the application made for issuance of Legal Heirship Certificate.

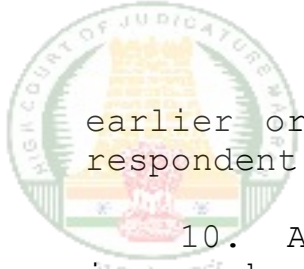
7. In these circumstances, it would be appropriate to observe that the respondent instead of rejecting the petitioner's claim for issuance of Legal Heirship Certificate, can very well obtain affidavits from the concerned legal heirs and based on the said affidavits, the Legal Heirship Certificate, can be issued.

8. The learned counsel appearing for the petitioner would also draw my attention to an order passed by this Court in W.P(MD)No.1260 of 2016, dated 21.01.2016, wherein it is held as follows:

4. In my considered view such reasoning of the respondent for rejecting the request of the petitioner cannot be accepted on the reason that the respondent is not without any machinery or subordinates to conduct an enquiry and ascertain the facts from the village. Needless to say that the respondent can direct the Village Administrative Officer of that particular village where the deceased lived, to conduct enquiry and file a report. Therefore, the order of the respondent rejecting the request of the petitioner cannot be sustained. Accordingly, this Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent to conduct the enquiry in the locality and thereafter to pass an order on merits and in accordance with law. Such exercise shall be done within a period of twelve weeks from the date of receipt of a copy of this order.

<https://hcservices.eCourts.gov.in/hcservices/>

9. In view of the observations made by this Court in the



earlier order extracted above, the impugned order passed by the respondent is liable to be set aside.

10. Accordingly, this Writ Petition is allowed and the impugned order of the respondent, dated 13.10.2016, is hereby set aside. Consequently, the petitioner is granted liberty to approach the respondent with a fresh application along with affidavits giving details of the legal heirs of late. Ankama Naidu and on receipt of the same, the respondent shall issue the Legal Heirship Certificate to the petitioner, within a period of six weeks therefrom. No Costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Tahsildhar,
Dindigul West,
Dindigul District,

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 2795
+ 1 CC TO Mr.V.PALANICHAMY, ADVOCATE IN SR NO. 2429

PM
TE/MR-VB : 02/02/2017 : 3P/4C

W.P. (MD) No. 697 of 2017
12.01.2017