



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAMW.P. (MD). No. 7823 of 2017

WEB COPY

Tmt. S.K. Mangaleshwari

... Petitioner

Vs.

The Tahsildar,
Madurai South,
Collector Office,
Madurai 625 002.

... Respondent

PRAYER: Writ Petition is filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned order passed by the respondent in O.Mu.No.8437/2016/Aa dated 26.12.2016 and to quash the impugned order of the respondent and consequently direct the respondent to issue legal heir certificate to the petitioner as per the Hindu Succession Act, 1956 under Section 8 of General Rules of Succession in Cases of Males within a stipulated time fixed by this Court.

For Petitioner	: Mr.T.R.Subramanian
For Respondent	: Mr.G.Muthukannan Government Advocate

O R D E R

Challenge in the writ petition is to the order passed by the respondent, dated 26.12.2016.

2. The case of the petitioner is that his brother S.K.Maheswaran died as a bachelor on 21.07.2013 and her (*)mother S.K.Mahalakshmi died as a spinster on 01.04.2016. Hence, she applied for issuance of legal-heir certificate before the respondent on 26.12.2016. But it was rejected on the ground that she is not a class-I heir.

<https://hcservices.courts.gov.in/HCServices> Subramanian, learned counsel for the petitioner would submit that admittedly, the petitioner is the Class-II heir, as per Hindu Succession Act, 1956. When the Class-I heir is not



available, the petitioner is entitled to get the legal-heir certificate. In support of his contention, the learned counsel for the petitioner relied on a judgment of this Court in W.P.(MD). No.18215 of 2016 dated 17.10.2016.

4. Per contra, the learned Government Advocate would submit that the respondent would issue a legal-heir certificate only to Class-I heir and the Class-II heir has to approach only the civil Court and the respondent has no authority to issue a legal-heir certificate to Class-II heirs.

5. This Court, in W.P.(MD).No.18215 of 2016 dated 17.10.2016, has held that if Class-I heir is not available, then Class-II heir is entitled for legal-heir certificate.

6. In the light of the above order, this Court is of the opinion that the petitioner is entitled to succeed in the Writ Petition. Accordingly, the order dated 26.12.2016 is set aside and the matter is remitted back. The respondent shall conduct enquiry and after verifying the fact whether any other legal-heirs are available for the deceased, pass orders within a period of twelve weeks.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(ADII)

/True Copy/

Sd/-

Assistant Registrar(CO)

/True Copy/

**(*)Amended as per order of
this Hon'ble Court dated 15.02.2019.**

Sub-Assistant Registrar

To

(*) To be substituted the order already despatched on 09.10.2017
The Tahsildar,
Madurai South,
Collector Office,
Madurai 625 002.

+One cc to Mr.T.R.Subramanian, Advocate, SR.No.78133

akv

RL/3C/2P/SKN/RSK/SAR1/9/10/2017

W.P.(MD).No.7823 of 2017

12.09.2017