

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.32062 of 2017

D.Srividhya

.. Petitioner

vs.

The Tahsildhar,
Mambalam - Guindy Taluk,
Chennai-600 078.

..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the respondent dated 22.11.2017 in Na.Ka.No.(E1)/7185/2017 and quash the same and consequently direct the respondent to issue the Legal Heirship Certificate of Selvi.D.Srvinayaa in favour of the petitioner.

For Petitioner : Mr.K.Selvaraj
For Respondent : Mr.D.Suriyanarayanan,
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the order of the respondent dated 22.11.2017 refusing to grant Legal Heirship Certificate to the petitioner on the reason that the deceased did not have any Class-I heir and that the respondent is not in a position to issue Legal Heirship Certificate in respect of Class-II heir.

2. Heard both sides.

3. The petitioner's father K.A.Desikan died on 29.06.2006 leaving behind the petitioner's mother by name Vaidehi Desikan, the petitioner and another sister of the petitioner by name, Srvinayaa as his legal heirs. The respondent issued the legal heirship certificate to that effect on 03.08.2006. Subsequently, the petitioner's mother, namely, the said Vaidehi Deiskan died on 18.02.2016 leaving behind the petitioner and her sister as her legal heirs. The respondent herein issued the legal heirship certificate to that effect on 26.05.2016. Thereafter, the petitioner's sister, namely, the said Srvinayaa died on 04.11.2017 leaving behind the petitioner alone as her legal heir, as she died unmarried, at the age of 32 years. When the petitioner sought for legal heirship certificate from the

respondent, in pursuant to the death of her sister, the respondent refused to issue such Certificate, based on the reasons as stated supra.

4. Mr.K.Selvaraj, learned counsel for the petitioner by relying on the decisions made by this Court, reported in CDJ 2013 MHC 6017 (M.Arumugam & Others v. The Tahsildar, Madurai Sluth, Madurai & Another) and 2016 SCC Online Mad 5440 (D.Viswanathan vs. The District Collector, Collectorate of Chennai, Chennai & another) submitted that the petitioner is entitled to get the legal heirship certificate from the respondent as Class-II heir.

5. On the other hand, learned Additional Government Pleader, submitted that the respondent was not in a position to issue the legal heir certificate only because of the reasons stated in the impugned order.

6. Upon hearing the learned counsel on either side and perusing the materials placed before this Court and also the decisions referred to by the learned counsel for the petitioner, this Court is of the view that the reasons set out by the respondent in the impugned order cannot be sustained and on the other hand, the respondent has to consider the request of the petitioner and issue appropriate legal heir certificate in the light of the order passed in CDJ 2013 MHC 6017 (M.Arumugam & Others v. The Tahsildar, Madurai Sluth, Madurai & Another). Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent for passing fresh orders in the light of the order already passed by this Court in the decision reported in CDJ 2013 MHC 6017 (M.Arumugam & Others v. The Tahsildar, Madurai Sluth, Madurai & Another). Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

vsi
To

The Tahsildhar,
Mambalam - Guindy Taluk, Chennai-600 078. W.P.No.32062 of 2017
+1 cc to M/S.K.SELVARAJ Advocate SR.NO. 8797
+1 cc to Government Pleader SR.NO. 9391
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RD 17/02/2018