

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.9778 of 2010

S.Ramalingam

..Petitioner

Vs.

1. The State of Tamilnadu,
Rep.by its Secretary,
Department of Revenue,
Fort St.George, Chennai - 9.
2. The Tahsildar,
Egmore - Nungambakkam Taluk,
Chennai - 31.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to proceedings bearing Na.Ka.No.E4/28743/09 dated 3.2.2010 and quash the same and consequently direct the 2nd respondent to issue the Legal Heir Certificate to the Petitioner.

For Petitioner : Mr.M.Sankar

For Respondents : Mr.J.Ramesh, AGP

O R D E R

The petitioner has come up with the present writ petition to quash the order passed by the second respondent vide his proceedings in Na.Ka.No.E4/28743/2009 dated 03.02.2010 and consequently, direct the second respondent to issue legal heir certificate to him.

2.According to the petitioner, his father K.Shanmugam died on 19.04.1982 and his mother predeceased him. He made an application on 14.12.2009 to the second respondent to issue legal heir certificate to the effect that the petitioner and his sister Kamala are the only surviving legal heirs of the deceased K.Shanmugam. However, by the order impugned herein, the second respondent, without conducting any enquiry and providing any opportunity of personal hearing to the petitioner and also

without assigning any reason, rejected his application and directed him to approach the Civil Court to get legal heir certificate. Hence, this writ petition.

3. Upon notice, the second respondent filed a detailed counter affidavit, inter alia stating that the petitioner's father late Shanmugam was having two wives and he has a daughter through his second wife; and the petitioner is deliberately omitting the name of his half sister Saroja, who is also a legal heir to late Shanmugam through his second wife; further, there seems to be a dispute among the legal heirs for division of the property left by late Shanmugam; and hence, as per the guidelines issued by the Government in Letter (Perm) No.1534 dated 28.11.1991, the second respondent passed the rejected order.

4. Heard both sides and perused the records.

5. The main contention of the learned counsel for the petitioner is that without conducting any enquiry and without assigning any reason, the second respondent passed the order rejecting the request of the petitioner seeking legal heir certificate, which is arbitrary, illegal and against the principles of natural justice.

6. This Court finds considerable force in the contention so made by the learned counsel for the petitioner. It is absolutely essential that the principles of natural justice should have been followed by the authorities, before reaching a conclusion/decision and an opportunity should have been given to the aggrieved parties to put forth their case.

7. In my opinion, the order impugned herein does not disclose anything about the conduct of enquiry and grant of opportunity of personal hearing to the petitioner. Further, the reason adduced therein was not supported by any provision of law. Hence, the same is liable to be set aside, as it is contrary to law and violates the principles of natural justice.

8. Accordingly, the order dated 03.02.2010 passed by the second respondent is set aside and the matter is remanded back to the second respondent for a fresh consideration. The second respondent is directed to consider the claim of the petitioner seeking legal heir certificate of his late father K. Shanmugam and pass appropriate orders on merits and in accordance with law, after issuing due notice and providing an opportunity of personal hearing to the petitioner as well as all the necessary parties. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9.This writ petition stands allowed to the extent as indicated above. No costs.
Rk

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

To

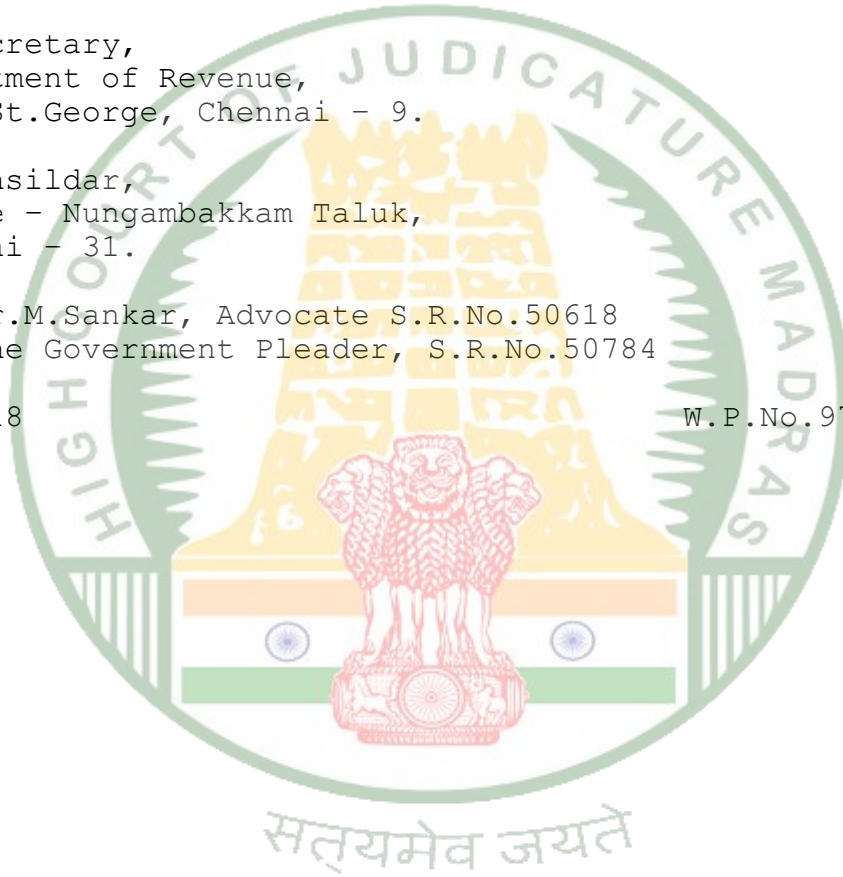
1. The Secretary,
Department of Revenue,
Fort St.George, Chennai - 9.
2. The Tahsildar,
Egmore - Nungambakkam Taluk,
Chennai - 31.

+1cc to Mr.M.Sankar, Advocate S.R.No.50618

+1cc to the Government Pleader, S.R.No.50784

KR/22/10/18

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