

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.11.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.25894 of 2018

M.Beulah

.. Petitioner

Vs.

1. The District Collector,
Chennai District Collectorate,
Singaravelar Maaligai, Chennai - 600 001.
2. The Revenue Divisional Officer,
(Chennai Central Region),
Revenue Divisional Office,
Ambattur Road, Ambattur,
Chennai - 053.
3. The Tahsildar,
Ayanavaram Taluk Office,
Ayannavaram, Chennai - 082.

.. Respondents

(Cause title amended vide order dated 27.11.2018
made in WMP.35614 of 2018 in W.P.No.25894 of 2018.)

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the 3rd respondent to
issue legal heir certificate.

For Petitioner : Mr.N.Ramkumar
for Mr.R.A.Karimullah
For Respondents : Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The Writ Petition has been filed seeking a direction to the
third respondent to issue legal heir certificate.

2. The petitioner is the second wife of deceased D.Martin Das. The first wife of D.Martin Das one Anne Martin, died on 23.01.2008. Thereafter, on 17.09.2008 the petitioner married the deceased Martin Das, who died on 01.04.2018. The petitioner had made an application on 21.09.2018 to the third respondent for issuance of the legal heir certificate claiming that she is the only sole surviving legal heir as there are no children born out of the wedlock.

3. The Revenue Inspector seems to have rejected her application stating that the deceased has more than one wife. There is a Circular No.11/2017 issued by the Principal Secretary / Commissioner of Revenue Administration in Rc.No.RA.5 (3)/180/2017 dated 09.08.2017. The said circular issued certain guidelines for issuance of Legal Heir Certificate manually. If there is a direct legal heir, the certificate can be issued and the petitioner is undoubtedly, the direct legal heir being sole surviving wife of the deceased.

4. In Clause 7 of the said circular General instruction are given wherein, it is stated the Thasildars shall not issue legal heir certificate and to inform the applicants to approach the Competent Court for obtaining the legal heir certificates on certain conditions. First condition is that the existence of more than one wife/husband for the deceased.

5. In this case, admittedly, the first wife died on 23.01.2008 and the petitioner had married only on 17.09.2008. As on the date of the death of the husband D.Martin Das, there was only one wife surviving. Therefore, the Revenue Inspector did not have to get any doubt on that. Even without verifying the factual details, the petitioner is made to run pillar to post. The Revenue Inspector is an officer, who is familiar with the people living in the concerned village. The Revenue Department has its own infrastructure having different officers at various levels including the Village Assistant, Village Administration Officer (VAO), Revenue Inspector, Tashildar etc., The VAO also is expected to keep a close watch on the village and update his information.

6. In several cases issuance of legal heir certificate for Clause II heir was only problem, whereas, in this case, the petitioner is the sole surviving wife of the deceased and without conducting the enquiry, her application is rejected. When the personal law governing the parties specify the mode of succession, there cannot be any impediment for the authorities to issue the legal heir certificate as prescribed in the statute. Even in the absence of any rival claim for heirship it

is not understandable as to why the authorities have failed to issue the legal heir certificate. It is unfortunate that the rejection order is passed without even verifying the relevant particulars.

7. In such circumstances, the 3rd respondent is directed to issue the legal heirship certificate to the petitioner, if otherwise she is entitled to. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

av/rsi

To

1. The District Collector,
Chennai District Collectorate,
Singaravelar Maaligai, Chennai - 600 001.
2. The Revenue Divisional Officer,
(Chennai Central Region),
Revenue Divisional Office,
Ambattur Road, Ambattur,
Chennai - 053.
3. The Tahsildar,
Ayanavaram Taluk Office,
Ayannavaram, Chennai - 082.

+1cc to Mr.N.Inbanathan, Advocate, S.R.No.81010

+1cc to Mr.R.A.Karimullah, Advocate, S.R.No.81097

+1cc to the Government Pleader, S.R.No.81408

W.P.No.25894 of 2018

NMI (CO)
GSP (24/12/2018)