



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.8362 of 2018

WEB COPY

M.Saverimuthu

... Petitioner

vs.

1.The District Collector,
Sivagangai District.

2.The Tahsildar,
Kalaiyarkoil Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in O.Mu.No.A6-346-2018 dated 08.03.2018 and quash the same and direct the respondents to issue legal heir certificate as per the application dated 17.12.2017 submitted by the petitioner.

For Petitioner

: Mr.V.Panneer Selvam

For Respondents

: A.Muthukaruppan

Additional Government Pleader

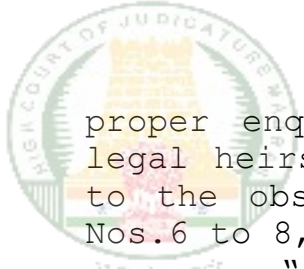
O R D E R

This writ petition is filed to quash the proceedings dated 08.03.2018 passed by the second respondent in O.Mu.No.A6-346-2018 and direct the respondents to issue legal heir certificate, as per the application dated 17.12.2017 submitted by the petitioner.

2.The issue which is raised in this writ petition is as to whether the petitioner is entitled to get Legal heirship Certificate from the second respondent.

3.The petitioner's younger brother namely, One M.Sebastian, who was unmarried, died on 10.12.2017 and hence, the petitioner herein has approached the second respondent for issuance of the legal heirship certificate to the siblings of the said Sebastian as per Class-II legal heirs. However, it appears that the second respondent has passed the proceedings dated 08.03.2018, rejected the claim of the petitioner stating that the said M.Sebastian, did not have any direct legal heirs and directed the petitioner to approach the appropriate Civil forum to work out his remedy. Challenging the said proceedings, the petitioner has filed the present writ petition.

4.According to the learned counsel for the petitioner that in similar circumstances, this Court vide order dated 03.08.2018 in W.P. (MD).No.15901 of 2018, has directed the Tahsildar to conduct



proper enquiry and issue legal heirship certificate for Class-II legal heirs. The learned counsel drew the attention of this Court to the observation made by the learned Single Judge in Paragraph Nos.6 to 8, as extracted hereunder:

"6. When the law specifies the mode of succession, there is no impediment on the part of the Tahsildar to issue Legal heirship certificate as prescribed in the mode of succession. Nevertheless, in cases, where there are serious rival claims for the heirships, which cannot be considered, on the basis of the statement of the claimants and which necessarily requires to be established through proper oral and documentary evidence, it would be appropriate, to refer such parties to the Civil Court of law. Such an exercise however should be made only when the authority is satisfied that there is a rival claim for heirship or the relationship of the heirs with the deceased is disputed. In all other cases, the authorities are bound to issue Legal heirship Certificate for the Class-II legal heirs also. It is needless to point out that the certificates thus issued should be preceded by a proper enquiry by the Revenue Authorities.

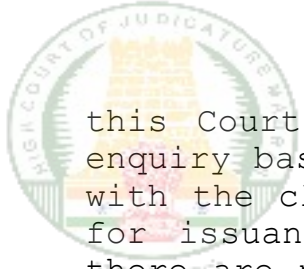
7. In the instance case, the respondents are not justified in denying the legal heirship certificate of late Periyamadasamykonar only on the ground that he did not have direct heirs. It is rather unfortunate that even inspite of the several orders of this Court directing the Tahsildar/Deputy Tahsildar to issue Legal heirship Certificate for the Class-II heirs also, the respondents have chosen to rely upon an outdated letter of the year 1991 and has been rejecting such applications.

8. In the result, the impugned order dated 25.08.2016 is set aside and consequently, the respondents herein are directed to conduct a proper enquiry and issue Legal heirship Certificate of Late Periyamadasamykonar to the petitioner, if he is otherwise entitled to. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs."

He would further submit that the second respondent may conduct an enquiry and if there are no rival claims, it is always open to him to issue legal heirship certificate.

5. The learned Additional Government Pleader appearing for the respondents would submit that in terms of the observation of the learned Single Judge, the second respondent may be directed to conduct an enquiry and pass appropriate orders within the time stipulated by this Court.

6. Considering the submission made on behalf of the petitioner,



this Court hereby directs the second respondent to conduct proper enquiry based on the claim of the petitioner and on being satisfied with the claim, the second respondent shall pass appropriate orders for issuance of legal heirship Certificate to the petitioner, if there are no other rival claims, within a period of four weeks from the date of receipt of a copy of this order. The second respondent is also directed to take a decision on the basis of the observation made by the learned Single Judge as stated supra.

7. With the aforesaid directions, this writ petition is disposed of. No costs.

Sd/
Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar (CS-I)

To:

1. The District Collector,
Sivagangai District.

2. The Tahsildar,
Kalaiyarkoil Taluk,
Sivagangai District.

+1cc to Mr. V. PANNEER SELVAM, Advocate, SR.No. 79816
+1cc to M/s. Special Government Pleader, SR.No. 79957

W.P. (MD) No. 8362 of 2018
23.08.2018

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