

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3642 of 2019
and
W.M.P.No.3993 of 2019

P.S.M.Buhari

... Petitioner

Vs.

The Tahsildar,
Purasawakkam Taluk,
Chennai 600 003.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the respondent in Letter No.A6/3748/2017 dated 17.05.2018 and quash the same as illegal, incompetent and ultravires and consequently, direct the respondent to issue legal heir certificate for the petitioner deceased brother namely, P.Abdul Haleem.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.S.Soundararajan
Government Advocate

O R D E R

This writ petition has been filed challenging the order passed by the respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

2. According to the petitioner, his parents had eleven children and both of them passed away. He is the brother of the deceased namely, P.Abdul Haleem, an unmarried person, who died on 27.07.2017. After his death, the petitioner along with his brothers and sisters filed an application dated 06.10.2017 for issuance of legal heir certificate. Based on the application, an enquiry was conducted and the respondent-Tahsildar passed an order rejecting his application on the ground that since the petitioner is not the direct legal heir of the deceased P.Abdul Haleem, he has to approach the Civil Court for getting the

Certificate. Challenging the said order, the present writ petition has been filed.

3. Heard both sides.

4. The petitioner claims that the deceased is a bachelor and he has no legal heirs except his brothers and sisters. Hence, it is for the respondent/Tahsildar to consider the said request as per the guidelines issued by the Government, which reads as follows:

"1. As per the present procedure the Tahsildar has to issue the legal heirship certificate to the direct heir.

2. The Tahsildars should avoid issuing legal heirship certificate in respect of the following items mentioned below, apart from the direct heirs and the applicants should be instructed to get the certificate through the Civil Court.

"a. If there are more than one wife/husband for the deceased, and even if they have children and if it is evident that there is a partition dispute among them.

b. When there is a condition to issue heir certificate for the person, who has left the family for seven years by deeming that person to be dead.

c. If a person is residing in other District, and does not have the residence within the limits of the Taluk and if he is not in possession of a house or property, and does not attend the enquiry to give his statement to the Tahsildar.

d. If the deceased does not have children and brings up other children."

3. Even as per the above guidelines, the respondent/Tahsildar could instruct to avoid issuing legal-heir certificate falling under the above four categories only. Since the petitioner does not fall under anyone of the above categories, the impugned order is set aside and the matter is remitted back to the respondent/Tahsildar to reconsider the claim of the petitioner in the light of the observation stated supra and pass appropriate orders on merits and in accordance with law, after conducting enquiry and verifying the fact whether any other legal-heirs are available for the deceased, within a period of 8 weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of.
No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vri

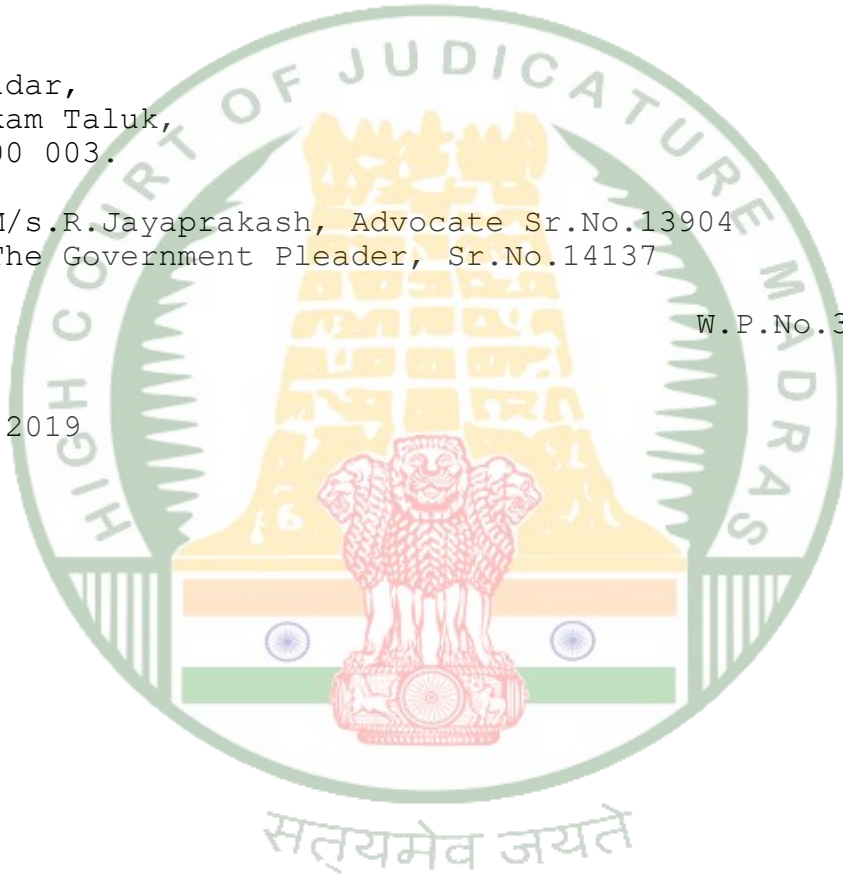
To

The Tahsildar,
Purasawakkam Taluk,
Chennai 600 003.

+1 cc to M/s.R.Jayaprakash, Advocate Sr.No.13904
+1 cc to The Government Pleader, Sr.No.14137

W.P.No.3642 of 2019

RR(CO)
CSL/06.03.2019



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