

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8903 of 2019
and
W.M.P.No.9450 of 2019

A.Manuel Raj

...Petitioner

Vs.

1. The Taluk Head Quarters Tahsildar,
Mylapore-Triplicane Taluk,
No.28, Pasumpon Muthuramalingam Road,
R.A. Puram, Chennai-600028.

2. The District Collector,
No.62, Rajaji Salai,
Chennai-600001.

3. The Secretary,
Department of Revenue and Disaster Management,
Secretariat, Fort St.George,
Chennai-600009.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent vide his Proceeding No.TN 7201806201441, dated 20.06.2018 herein and quash the same as illegal and improper and consequently, direct the 1st respondent to entertain on-line application or to entertain a written application dated 20.06.2018 from the petitioner and to grant Legal heirship Certificate of Late R.A.Kanagaraj, who died intestate on 02.02.2018.

For Petitioner : Mr.D.Stephen

For Respondents: Mr.S.N.Parthasarathy
Government Advocate

O R D E R

Mr.SN Parthasarathy, learned Government Advocate takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the order dated 20.06.2018 passed through on-line by the first respondent rejecting the petitioner's request for issuing the legal-heir Certificate and consequently, seeking a direction to the first respondent to grant legal heirship certificate of late R.A.Kanagaraj, who died intestate on 02.02.2018.

3. According to the petitioner, his father namely, Ashirvatham, was missing from the year 1984 and his mother, namely A.Gnanasundari, died on 02.08.2010. The petitioner is one of the younger brother of Late R.A.Kanagaraj, who died intestate on 02.02.2018. After his death, the petitioner made an on-line application on 20.06.2018, seeking for issuance of legal heirship certificate of his elder brother Late R.A.Kanagaraj. Based on the on-line application, the first respondent rejected the petitioner's request on the ground that the petitioner is a second class legal heir of the deceased R.A.Kanagaraj. Challenging the said on-line status, the present writ petition is filed.

4. Heard both sides.

5. Admittedly, the petitioner is not the Class-I legal heir of the deceased R.A.Kanagaraj. However, as claimed by the petitioner, the deceased is a bachelor and he has no other direct legal heirs except his brothers and sisters. Since in the absence of any other Class-I legal heir, there is no impediment for the first respondent 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."

6. Even as per the above guidelines, the first respondent 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 first respondent 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Taluk Head Quarters Tahsildar,
Mylapore-Triplicane Taluk,
No.28, Pasumpon Muthuramalingam Road,
R.A. Puram, Chennai-600028.

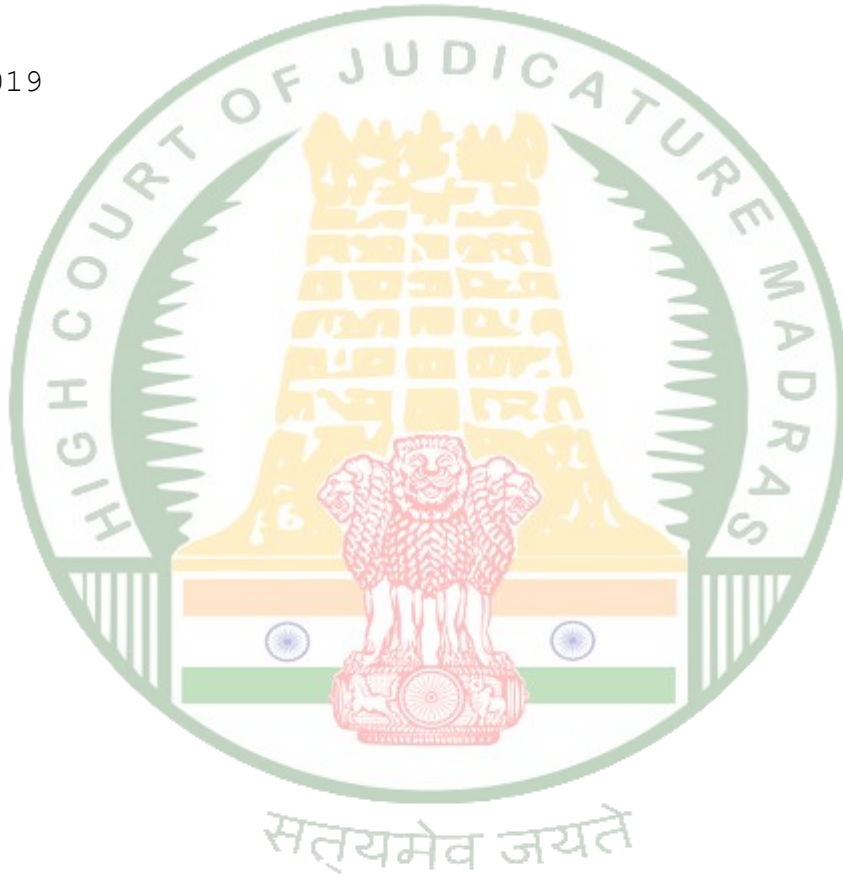
2. The District Collector,
No.62, Rajaji Salai,
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3. The Secretary,
Department of Revenue and Disaster Management,
Secretariat, Fort St.George,
Chennai-600009.

+2cc to Mr.D.Stephen, Advocate Sr.30257
+1cc to the Government Pleader Sr.30488

W.P.No.8903 of 2019

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srg 3/5/2019



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