

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.6091 of 2019

S.Muthu

...Petitioner

Vs.

1.The District Collector
Office District Collectorate
Chennai District
Chennai.

2.The Tahsildar
Tiruvottiyur Taluk
Chennai District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.1699/2018/A3 dated 11.12.2018 and quash the same as illegal and consequently, direct the 2nd respondent to issue the legalheir certificate based on the petitioner's representation dated 02.11.2018.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondents: Mr.E.Balamurugan

Special Government Pleader

O R D E R

Mr.E.Balamurugan, learned Special Government Pleader takes notice for the respondents. By consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the order dated 11.12.2018 passed by the second respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

3. According to the petitioner, his father died on 03.05.2012 and mother died on 05.05.2012. He is the brother of the deceased namely, Udhaya, an unmarried person, who died on 22.02.2018. After his death, the petitioner filed a representation dated 02.11.2018

seeking for issuance of legal heirship certificate. Based on the representation, an enquiry was conducted and the second respondent-Tahsildar passed an order dated 11.12.2018 rejecting his application on the ground that since the petitioner is not the direct legal heir of the deceased Udhaya, he has to approach the Civil Court for getting the Certificate. Challenging the said order, the present writ petition is filed.

4. Heard both sides.

5. Admittedly, the petitioner is not the Class-I legal heirs of the deceased Udhaya, being the brother, he is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is a bachelor and he has no other legal heirs except his brother. Since in the absence of any other Class-I legal heir, there is no impediment for the second 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."

6. Even as per the above guidelines, the second 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 second 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.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

mk
To

1.The District Collector
Office District Collectorate
Chennai District
Chennai.

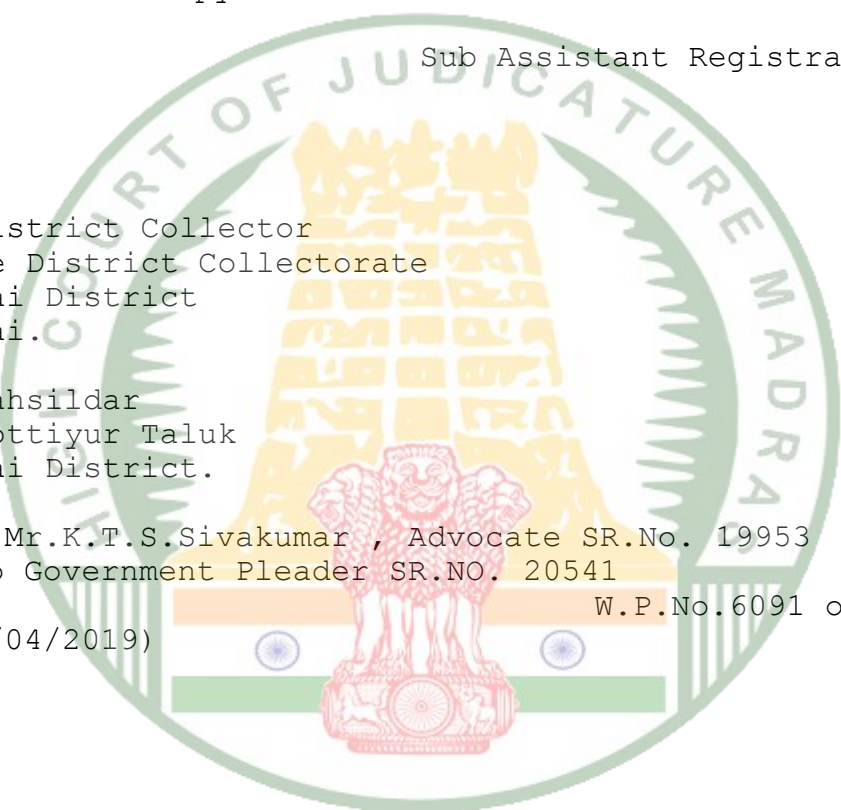
2.The Tahsildar
Tiruvottiyur Taluk
Chennai District.

+1cc to Mr.K.T.S.Sivakumar , Advocate SR.No. 19953

+1 cc to Government Pleader SR.NO. 20541

W.P.No.6091 of 2019

A.SK(01/04/2019)



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