

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.6644 of 2019

N.Bhanumathy

...Petitioner

Vs.

1.The District Collector
Chennai District
No.62, Rajaji Salai, Chennai-1.

2.The Tahsildar
O/o.Tahsildhar Mylapore
Mylapore, Chennai.

...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 leading to passing of the impugned order dated 19.02.2019 in Moo.Mu.No.AA4/001/2019 by the second respondent herein and quash the same and consequently, direct the 2nd respondent to issue legal heir certificate to the petitioner in accordance with law.

For Petitioner : Mr.A.Tamilvanan

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 19.02.2019 passed by the second respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

3. According to the petitioner, her mother, father and brother died on 06.09.2000, 08.09.2001 and 27.11.2004 respectively. The petitioner is the sister of the deceased viz., Shantha, an unmarried person, who died on 25.06.2018. After her death, the petitioner filed an application on 19.02.2019 seeking for issuance of legal heirship certificate for her deceased sister viz., Shantha. Based on the

application, an enquiry was conducted and the second respondent-Tahsildar passed an order dated 19.02.2019 rejecting her application on the ground that since the petitioner is not the direct legal heir of the deceased Shantha and as per the Circular No.11/2017 and the order of the Commissioner of Revenue Administration dated 09.08.2017, Class-II legal heirship certificate cannot be issued to the petitioner. Challenging the said order, the present writ petition is filed.

4. Heard both sides.

5. Admittedly, the petitioner is not the Class-I legal heir of the deceased Shantha, being the sister, she is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is a bachelor and she has no other legal heirs except her sister. 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

//True Copy//

Sub Assistant Registrar

mk

To

1.The District Collector
Chennai District
No.62, Rajaji Salai, Chennai-1.

2.The Tahsildar
O/o.Tahsildhar Mylapore
Mylapore, Chennai.

+1 cc to Mr.A.Tamilvanan, Advocate, S.R.No.21413

+1 cc to the Government Pleader, S.R.No.22641

W.P.No.6644 of 2019

BR(CO)
SSM(28/03/2019) .

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