

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.03.2019
CORAM
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.8911 of 2019
and
W.M.P.No.9465 of 2019

Dharmambal

... Petitioner

Vs.

1. The Tahsildar,
Thiruvallur Taluk,
Thiruvallur - 602001.

2. The Revenue Inspector,
Tiruvallur Taluk,
Thiruvallur - 602001.

3. Shriram City Union Finance Ltd
221, Royapettah High Road,
Mylapore,
Chennai - 600004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent 1 & 2 to receive the application of the petitioner and consider on merits and issue the Legal Heir Certificate for the deceased.

For Petitioner : Ms.S.Mekhala

For Respondent : Mr.E.Balamurugan
Special Government Pleader
for R1 & R2

सत्यमेव जयते
O R D E R

Mr.E.Balamurugan, learned Special Government Pleader takes notice for the respondents 1 and 2. Since this writ petition is being disposed of without affecting the interest of the third respondent, notice to the said respondent is dispensed with.

2. This writ petition has been filed seeking for a mandamus directing the respondents 1 & 2 to receive the application of the petitioner and consider the same on merits and issue the legal heirship certificate for her deceased brother.

3. According to the petitioner, both her father and mother

are not alive and she is the only sister of her deceased brother namely, Swaminathan, who died intestate on 08.07.2018. It is stated that the deceased brother has nominated the petitioner as a nominee for the Life Insurance Policy and Royal Sundaram General Insurance Policy. After his death, the petitioner made an application to the respondents 1 & 2 seeking for issuance of legal heirship certificate of her deceased brother Swaminathan.

4. The grievance of the petitioner before this Court is that the first respondent has refused to receive the application for issuance of legal heirship certificate of her deceased brother namely, Swaminathan, only on the reason that the petitioner is not a direct Class-I legal heir of the deceased.

5. Heard both sides.

6. Whether the petitioner is a Class-I legal heir or Class-II legal heir, it is for the first respondent to consider such claim after receiving the application and pass orders on the same in accordance with law. Certainly, the first respondent is not entitled to refuse even to receive the application from the petitioner. If the petitioner is a Class-II legal heir, there are guidelines issued by the Government as to how such application from such of those Class-II legal heir has to be considered, which read 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."

7. Therefore, it is for the first respondent to receive the

application from the petitioner and pass orders on the same in the light of the above guidelines issued by the Government, after conducting proper enquiry and verifying the fact whether any other legal heirs are available for the deceased. Accordingly, this writ petition is disposed of, only by directing the first respondent to receive the application from the petitioner and pass orders on the same on merits and in accordance with law, within a period of eight weeks. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Tahsildar,
Thiruvallur Taluk,
Thiruvallur - 602001.
2. The Revenue Inspector,
Tiruvallur Taluk,
Thiruvallur - 602001.

+1 cc to M/s.S.Mekhala, Advocate, Sr.No. 29621
+1 cc to The Government Pleader, Sr.No. 30482

LN(CO)
CSL/30.04.2019

W.P.No.8911 of 2019

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