

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. 28222 of 2016

E.Seethalakshmi

... Petitioner

Vs

1. The State,
rep. by its Secretary,
Revenue Development,
Secretariat,
Chennai.

2. The Tahsildar,
Mylapore Taluk,
Mylapore,
Chennai-600 004.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the letter Na.Ka./B4/5803/2016 dated 27.06.2016 issued by the 2nd respondent and to quash the order of 2nd respondent of the letter Na.Ka./B4/5803/2016 dated 27.06.2016 issued by the 2nd respondent and consequently direct the 2nd respondent to issue a legal heirship certificate of late E.Chitra sister to the petitioner.

For Petitioner	: Mr.S.Venkatesan
For Respondents	: Mr.I.Sathish, Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed challenging the order passed by the Tahsildar, 2nd respondent rejecting the request to issue the legal heirship certificate.

2. According to the petitioner, the petitioner's sister by name Chitra died intestate on 14.09.2015 leaving the petitioner, her sister as the only legal heir, as her parents were predeceased Chitra. During the life time of Chitra, she along with the petitioner have jointly purchased a immovable property. In the said circumstances, the petitioner has applied for issuance of legal heir certificate before the 2nd respondent. Now, the 2nd respondent has rejected the application on the

ground that, the petitioner is not a direct legal heir of deceased Chitra. Even though the enquiry reveals that, there is no direct legal heirs available to the deceased Chitra stating that, since the petitioner is not a direct legal heir, the Tahsildar was not authorised to issue legal heir certificate to the petitioner, and rejected the application of the petitioner. Challenging the said order, the present Writ Petition has been filed.

3. The 2nd respondent has filed a counter affidavit stating that, based on the application given by the petitioner, an enquiry was conducted by the local inspector. The report filed by the local inspector reveals that the deceased Chitra was unmarried and died issueless. The petitioner, being a sister of the deceased Chitra, claiming to be her legal heir, since the petitioner is a class-2 legal heir of deceased Chitra, the 2nd respondent Tahsildar has refused to issue the legal heirship certificate.

4. I have heard and considered the submissions made by the learned counsel appearing for the petitioner as well as learned Addl. Government Pleader appearing for the respondents and perused the materials available on record.

5. It is an admitted fact that the petitioner is a sister of deceased Chitra, and she is the only legal heir of deceased, as she died intestate, it is admitted by the 2nd respondent in the counter affidavit. In the above circumstances, merely because, the petitioner is class-2 legal heir, in absence of any other legal heirs, the 2nd respondent cannot refuse to grant legal heir certificate. Though the circular issued by the Government empowered the Tahsildar to give legal heir certificate only in respect of direct legal heirs, in the instant case, it is admitted by the 2nd respondent that, the petitioner is the only available legal heir of deceased Chitra, I am of the view that, there cannot be any impediment for issuing legal heir certificate to the petitioner.

6. In view of the above, the impugned order passed by the 2nd respondent Tahsildar in Na.Ka./B4/5803/2016 dated 27.06.2016 is set aside, and the 2nd respondent is directed to issue legal heir certificate to the petitioner within a period of six weeks from the date of receipt of the copy of this order. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Revenue Development,
Secretariat,
Chennai.
2. The Tahsildar,
Mylapore Taluk,
Mylapore,
Chennai-600 004.

+1 CC to Mr.S.Venkatesan, Advocate sr 95460.
+1 CC to The Govt. Pleader sr 95620.

W.P. 28222 of 2016

EV(CO)
SP(17/02/2020)