

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.03.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.30518 of 2016
and
W.M.P.No.26455 of 2016

Dhandapani

.. Petitioner

Vs.

The Tahsildar,
Madurantakam Taluk,
Kancheepuram District.

.. Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent passed in his proceedings in O.Mu.3901/2016/A4, dated 07.06.2016 and quash the same and consequently direct the respondent to issue Legal Heirship Certificate of deceased Saravanan who died on 15.02.2016 to the petitioner.

For Petitioner : Mr.A.Ramalingam

For Respondent : Mr.N.Inbanathan
Additional Government Pleader

सत्यमेव जयते
O R D E R

The writ petition has been filed challenging the impugned order of the respondent passed in his proceedings in O.Mu.3901/2016/A4, dated 07.06.2016 and consequently directing the respondent to issue Legal Heirship Certificate of deceased Saravanan, who died on 15.02.2016 to the petitioner.

2. Heard the learned counsel appearing on both sides.

3. The case of the petitioner is that the petitioner, his brother Saravanan and sister Mariammal were born to one Manickam and Muniammal. The petitioner's mother Muniammal died on 21.12.1994 and father died on 09.09.2006. His sister was married

and living with her family at Cheyyur. The petitioner is also married and living with his family and his brother Saravanan was unmarried. While so, on 11.02.2016, the brother of the petitioner, namely, Saravanan met with an accident and he died on 15.02.2016. As the said Saravanan died as a bachelor and the parents also pre-deceased him, only the petitioner and his sister, who are the siblings, are his legal heirs. When the petitioner applied for legal heirship certificate, the same was rejected by the respondent on 07.06.2016 directing the petitioner to seek his remedy before the Civil Court as he is not a Class I heir.

4. In this context, it is relevant to advert to the Circular No.11/2017 in R.C.No.RA.5(3)/180/2017 dated 09.08.2017 issued by the Principal Secretary/Commissioner of Revenue Administration as per which, guidelines are issued to the Tahsildars for issuing Legal Heirship Certificate. Clause 5.3 of the same deals with the death of the unmarried children and their legal heirs. Admittedly, in this case, the parents are no more and the petitioner and his sister, who was not made as a party, alone are the legal heirs, as they being Clause II legal heirs. While so, even the guidelines provides for issuing the legal heirship certificate to the siblings of the deceased. Without adverting to the same, the impugned order has been passed by the respondent, which is liable to be set aside.

5. It is unfortunate that in spite of the instructions given to the respondent to issue legal heirship certificate for the Clause II heirs also, the respondent had directed the petitioner to approach the Civil Court. Hence, the order passed by the respondent is set aside and the respondent is directed to conduct appropriate enquiry and ascertain the legal heirs, namely, the siblings available for the deceased Saravanan, and issue Legal Heirship Certificate accordingly.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

rsi

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Sd/-
Assistant Registrar(CS VIII)

Sub Assistant Registrar

To

The Tahsildar,
Madurantakam Taluk,
Kancheepuram District.

+lcc to Mr.A.Ramalingam, Advocate, SR.No.21157
+lcc to the Govt.Pleader, Vide Sr.No. 22645

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and
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Kak (25/04/2019)



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