

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.5865 of 2017

A.Manickam

.. Petitioner

Vs.

The Tahsildhar,  
Egmore Nungambakkam,  
Taluk Office, Spur Tank Road,  
Chetpet, Chennai - 600 031.

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to his Order proceedings x/K/,4/8763/2016 dated 14.02.2017, to quash the same and to direct the respondent herein to pass a considered and appropriate order on merits in accordance with law by granting a fair and reasonable opportunity of being heard to the petitioner.

For Petitioner : Mr.V.Raghupathi

For Respondent : Mr.I.Satish,

Additional Government Pleader

ORDER

The writ petition has been filed challenging the order passed by the respondent Tahsildar rejecting the petitioner application seeking legal heir certificate.

2.According to the petitioner, he is the brother of one A.Kumar, who was working in Bharath Sanchar Nigam Limited(BSNL), expired on 12.10.2016 and their parents also predeceased the said A.Kumar. There is no Class-1 legal heir available to the deceased A.Kumar. The petitioner being his brother and four of his sisters are the Class II legal heirs. The petitioner earlier filed an application before the respondent Tahsildar to issue Legal Heir Certificate. However, the respondent Tahsildar rejected the application on the ground that the petitioner and his sisters are not the direct legal heirs of the deceased A.Kumar and legal heir certificate can be not issued to the petitioner. Now, challenging the above order, the present writ petition has been filed.

3.The respondent has filed a counter affidavit stating that as per the guidelines issued by the Government, the Tahsildar is empowered to issue legal heir certificate only to the direct legal heirs and in respect of other legal heirs, they have to necessarily approach a Civil Court. So far as the deceased A.Kumar is concerned, a local enquiry was conducted but, it was not helpful to determine as to whether the petitioner and his sisters alone are the legal heirs of the deceased A.Kumar. In the above circumstances, the respondent was not able to consider the request of the petitioner.

4.The learned counsel for the petitioner submitted that the deceased A.Kumar is unmarried and died interstate and he has no Class I legal heir. The petitioner being his brother and four of his sisters are the Class II legal heirs there is no impediment for the respondent Tahsildar to issue legal heir certificate, the Tahsildar, without conducting an enquiry and based on a discrete enquiry, without giving an opportunity to the petitioner to substantiate his case, has rejected the petitioner request.

5.The learned counsel for the respondent would contend that as per the circular issued by the Government, the Tahsildar is empowered to give legal heir certificate in respect of the direct legal heirs alone. Admittedly, the petitioner claiming to be the Class II legal heir of the deceased person. The local enquiry conducted by the Tahsildar is not helpful to determine as to whether the petitioner is the only available legal heir. In the above circumstances, the Tahsildar was not in a position to issue legal heir certificate.

6.I have considered the rival submissions and perused the materials placed on record.

7.The petitioner is claiming to be the Class II legal heir of the deceased A.Kumar and as per the circular issued by the Government, a Tahsildar is only empowered to issue legal heir certificate to the direct legal heirs. According to the petitioner, Class I heirs are not available, as the deceased was a Bachelor and died interstate and his brother and sisters, being the Class II heirs are alone the legal heirs of the deceased A.Kumar. From a perusal of the order passed by the respondent Tahsildar, it is seen that the Tahsildar has rejected the petitioner application without conducting any enquiry whatsoever, based on a discrete enquiry conducted by him and without giving any opportunity to the petitioner to substantiate his claim, has simply rejected the petitioner application.

8.In the above circumstances, I am of the view that the impugned order has been passed without giving an opportunity to the petitioner and is in violation of principles of natural

justice and I am inclined to set aside the order passed by the Tahsildar, and the Tahsildar is directed to conduct an enquiry and pass suitable orders after giving opportunity of hearing to the petitioner.

9.In the result, the writ petition is allowed and the impugned order is set aside. The matter is remanded to the respondent and the respondent is directed to conduct an enquiry and pass suitable order on merits after giving an opportunity of hearing to the petitioner. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

tsg  
To

The Tahsildhar,  
Egmore Nungambakkam,  
Taluk Office, Spur Tank Road,  
Chetpet, Chennai - 600 031.

+1cc to Mr.v.Raghupathi , Advocate SR.No. 94843  
+1 cc to Government Pleader Sr.No. 95158

W.P.No.5865 of 2017

A.SK(30/01/2020)

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