

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.34422 of 2018

S. Sivagami

.. Petitioner

Vs.

1. The Tahsildar,
Office of the Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

2. The Revenue Inspector,
Office of the Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

.. Respondents

PRAYER: The Writ Petition has been filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records connected with the order dated 12.12.2018 of the 1st respondent in Na.Ka.No.E1/6700/2018 and quash the same and consequently, direct the 1st respondent to issue legal heir certificate of deceased brother Chandrasekar of the petitioner.

For Petitioner : Mr.R.Prabhavathy

For Respondents : Mr.N.Inbanathan
Additional Government Pleader

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O R D E R

This Writ Petition is directed against the order passed by the first respondent/Tahsildar, Mambalam Taluk, in his letter Na.Ka.No.E1/6700/2018 dated 12.12.2018 rejecting the application of the petitioner thereby declining to issue legal heir certificate.

2. According to the learned counsel appearing for the petitioner, the petitioner is the wife of one K.N.Karthik, having married on 30.10.2014. The petitioner's grandfather died on 10.09.1984 leaving behind his wife Govindammal and son K.Selvaraj. The said Selvaraj is the father of the petitioner, who had two children including the petitioner and her brother. Selvaraj died on 21.12.1995 leaving behind legal heirs, namely, his mother Govindammal, wife Shanthi, daughter Sivagami i.e. the petitioner and son Chandrasekar. The grandmother Govindammal died on 24.02.2005 and the mother of the petitioner has also died on 22.01.2015. The brother of the petitioner also died on 22.10.2016 leaving behind the petitioner as the only surviving legal heir.

3. Further, there was a partition entered into between the petitioner and her brother with respect of the property in S.No.115/18 of an extent of 2695 sq.ft. in Virugambakkam Chennai. As the brother of the petitioner died unmarried, the petitioner is the only legal heir to her brother Chandrasekar. Though the petitioner may not be Class - I heir, she is Class - II heir. The respondents have made an enquiry and submitted a report. Based on the said report, it has been found by the Tahsildar that the petitioner is only being Class - II heir. In the absence of Class - I heir, Class - II heir is entitled to any rights.

4. Therefore, there is no impediment to issue legal heir certificate for Class - II heir in the absence of Class - I heir. The first respondent/Tahsildar, Mambalam Taluk, has erroneously interpreted Circular No.11, dated 09.08.2017 and rejected the legal heir certificate. As the same suffers from materials irregularities, the impugned order passed by the first respondent/Tahsildar, Mambalam Taluk, in his letter Na.Ka.No.E1/6700/2018 dated 12.12.2018 is set aside. The matter is remitted back to the first respondent directing him to issue legal heir certificate, if the claim is otherwise in order, within a period of four (4) weeks from the date of receipt of a copy of this order.

5. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Office of the Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

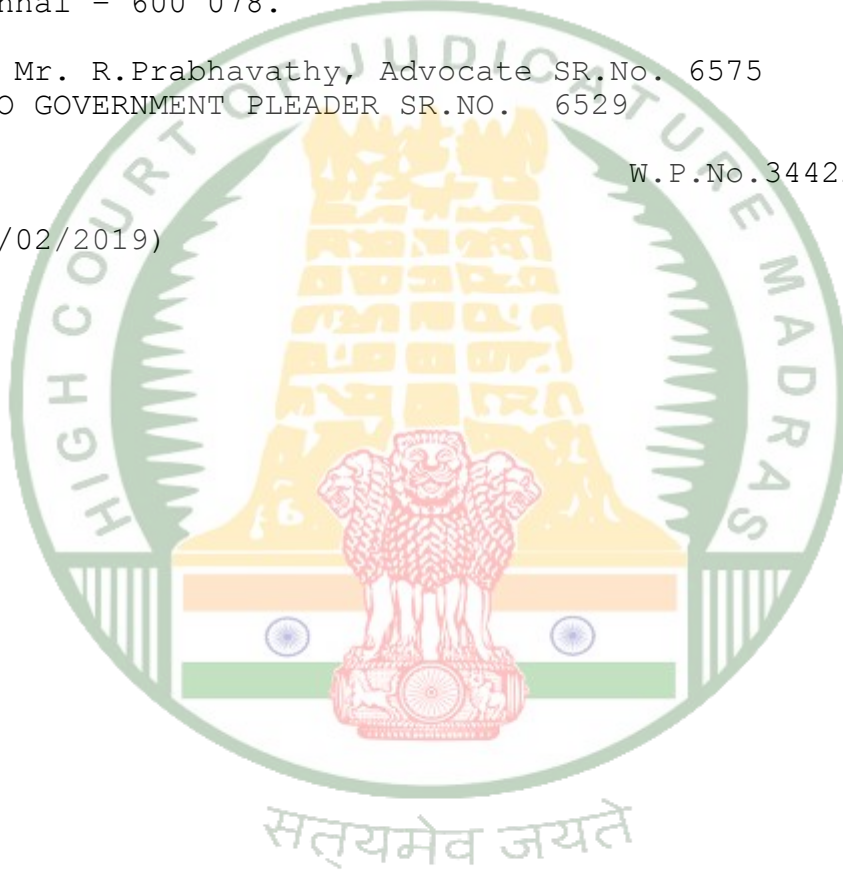
2. The Revenue Inspector,
Office of the Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

+1cc to Mr. R.Prabhavathy, Advocate SR.No. 6575

+1 CC TO GOVERNMENT PLEADER SR.NO. 6529

W.P.No.34422 of 2018

A.SK(26/02/2019)



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