



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

WEB COPY THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY
W.A. (MD) No.659 of 2019

S.Sitharthan

: Appellant/Petitioner

Vs.

1.Regional Manager,
Indian Overseas Bank,
Plot No.40, Eighty Feet Road,
Anna Nagar, Madurai.

2.The Branch Manager,
Indian Overseas Bank,
Aringar Anna Nagar Branch,
Plot No.40, Eighty Feet Road,
Anna Nagar, Madurai.

: Respondents / Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 15.11.2018 made in W.P.(MD) No.22840 of 2018.

Prayer in WP(MD) . 22840/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to direct the respondents jointly and severally to issue the copies of the death claim application with the reports of the Recommending, Sanctioning and Disbursing Authorities along with enclosed documents filed there at viz. 1.Copy of Death Certificate, 2. Legal heirship Certificate, 3. Identity Proof of Claimants / Legal heirs, 4. Affidavits, 5. Indemnity executed by Legal heirs with two(3rd Party) surities, 6. Consent Letters from Legal Heirs .

For Appellant : Mr.S.Sitharthan
Party - in - Person

For Respondents : Mr.N.Dilip Kumar

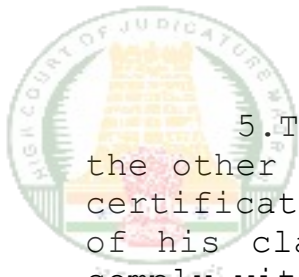
**J U D G M E N T****[Order of the Court was made by K.RAVICHANDRABAABU, J.]**

This writ appeal is filed by the writ petitioner challenging the order of the Writ Court in dismissing his writ petition filed for Mandamus, wherein and whereby the petitioner sought for issuance of copies of the death claim application with the reports of the recommending, sanctioning and disbursing authorities along with enclosed documents filed therein, viz., copy of the Death Certificate; Legal Heirship Certificate; Identity Proof of Claimants/Legal Heirs; Affidavits; Indemnity executed by legal heirs with two sureties and consent letters from legal heirs.

2.The appellant appeared and argued the matter as party-in-person. His claim is that he is one of the legal heirs of one deceased S.Subbiah, who was maintaining Savings Bank Account at the respondent's bank in S.B.A/c.No.065101000004743. It is his further claim that his father expired on 03.09.2015 leaving behind five persons including himself as the legal heirs, out of whom, one S.Kannan, pre-deceased his father. Therefore, the petitioner contended that after the death of his father, the amount lying in the respondent's bank in the said account has been transferred deliberately by the bank to his mother's savings bank account alone. The appellant thus contended that as one of the legal heirs of the said S.Subbiah, he is entitled to get those documents as sought for in the writ petition.

3.The writ Court, after considering the claim of the writ petitioner as well as the objections raised by the respondent bank, dismissed the writ petition by observing that the respondent bank rightly directed the writ petitioner to produce all the necessary documents to prove that he is one of the legal heirs of the deceased, so as to enable the bank to consider his request for furnishing the documents.

4.After hearing the matter for a while, we asked the appellant/writ petitioner, as to what is the document he relies in support of his claim that he is also one of the legal heirs of the deceased S.Subbiah. Answering the said query, the appellant seeks to rely upon a joint Will said to have been executed by the said S.Subbiah and his wife, Sarojini referring his name also therein as one of their sons. Therefore, he contended that the said Will itself would show that he is the son of the deceased S.Subbiah and consequently entitled for the relief. The appellant also sought to rely upon the Family Card issued in his name, wherein the father of the petitioner is referred to as Subbiah. Further document relied on by the appellant is the Identity Card issued by the Government of India referring his father's name as Subbiah.



5.The learned counsel appearing for the respondent bank on the other hand contended that in the absence of any legal heirship certificate produced by the appellant/writ petitioner in support of his claim, the respondent bank will not be in a position to comply with the request made by him for furnishing the documents.

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6.Heard both sides.

7.There is no dispute to the fact that as of now, the petitioner is not in possession of legal heirship certificate indicating that he is also one of the legal heirs of the deceased Subbiah. However, the appellant seeks to rely upon the above other documents in support of his claim. It seems that the petitioner seeks to get only copies of the documents referred to in the writ petition, also by stating before us that he is not going to make any claim over the amount lying in the account of the late S.Subbiah. In other words, the petitioner wants only the copies of certain documents referable to the said Savings Bank Account maintained by the said S.Subbiah. Needless to say that it is always open to the appellant/writ petitioner to make an application under Right To Information (RTI) Act, and seek for such documents, if he is not in a position to get such documents, by producing the legal heirship certificate, as sought for by the respondent bank. Therefore, we are of the view that the appellant/writ petitioner, instead of agitating the matter by way of filing the writ appeal, should resort to the remedy available under Right To Information (RTI) Act.

8.Therefore, by granting such liberty to the appellant/writ petitioner to make such application under RTI Act, this writ appeal is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

+2 CC to Mr.S.SITHARTHAN, Advocate SR-76625.

+1 CC to Mr.N.DILIPKUMAR, Advocate SR-76975.

W.A. (MD) No. 659 of 2019

22.07.2019

CS(06.08.2019) 3P 4C