



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD)No.25695 of 2019

and

WMP (MD)No.22263 of 2019

WEB COPY

M.Dhanalakshmi

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai West,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned order in O.Mu.No.4724/19/F dated 13.11.2019 on the file of the 2nd respondent and quash the same as illegal and consequently to direct the 2nd respondent to issue legal heir certificate of the petitioner's sister late Muniyammal.

For Petitioner
For Respondents

: Mr.R.Venkatesan
: Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

This writ petition is filed challenging the order passed in O.Mu.No.4724/19/F dated 13.11.2019 by the second respondent, rejecting the claim of the petitioner for grant of legal heir certificate.

2.The petitioner is one Dhanalakshmi, who had two elder sisters namely Muniammal and Pandiammal. The husband of Muniammal is one Chelliah. Muniammal died on 01.11.2018 and Chelliah died on 08.09.1999. The other sister Pandiammal died on 09.06.2016 and she was a spinster. The petitioner has applied for legal heir certificate for the deceased sister Muniammal. On enquiry, the Village Administrative Officer has sent a report, as per which, it was stated that the petitioner is the only legal heir for the deceased sister Muniammal. As per Section 8 of the Hindu Succession Act, 1956, sister will be a Class - II heir.



3. There is a Circular issued by the Revenue Administration, Disaster Management and Mitigation Department, Chennai in Circular No.9/2019, dated 24.09.2019, as per which, the Tahsildar are restrained from issuing any legal heir certificates for Class - II legal heirs and they should issue legal heir certificates only to the direct or Class I legal heirs as per Section 8 of the Hindu Succession Act, 1956. Therefore, the second respondent has passed the impugned order directing the petitioner to approach the civil Court in this regard. Challenging the same, the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

4. Even as per the report of the Village Administrative Officer, the petitioner is the only legal heir, being the sister of the deceased Muniammal and the said Circular restrains the Tahsildars from issuing legal heir certificate, as the sister is Class - II heir under Section 8 of the Hindu Succession Act, 1956.

5. Admittedly, the petitioner is a Class - II heir, being the only heir available for the deceased. Therefore, the Tahsildar is directed to consider the application of the petitioner and pass orders after conducting enquiry and verifying the fact whether any other legal heirs are available for the deceased Muniammal. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs. Consequently, WMP(MD)No.22263 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Madurai District,
Madurai.

2. The Tahsildar,
Madurai West,
Madurai.

+1 CC to Mr.R.VENKATESAN, Advocate (SR-103392[F] dated 04/12/2019)
+1 CC to SPL GP (SR-103575[F] dated 05/12/2019)

W.P(MD)No.25695 of 2019
04.12.2019