

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.3150 OF 2020

AND

W.M.P.NO.3695 OF 2020

Saraswathy Srinivasan

...Petitioner

Vs.

1.The Secretary
Department of Revenue
Government of Tamil Nadu
Fort St.George, Chennai-600 009.

2.The Tahsildar
Sholinganallur Taluk
Sholinganallur, Chennai-600 119.

3.The Village Administrative Officer
Sholinganallur II & Uthandi Village
Sholinganallur Taluk
Chennai-600 119.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the representation/Application No.7358254881, of the petitioner dated 07.01.2020 and to issue the certificate of Legal Heirship to this petitioner.

For Petitioner : Mr.Venkatesh Mahadevan

For Respondents : Mr.D.Suriyanarayanan
Additional Government Pleader

O R D E R

This writ petition is filed seeking for mandamus directing the second respondent to consider the representation/application No. 7358254881 dated 07.01.2020 and to issue the certificate of Legal Heirship to the petitioner.

2. The case of the petitioner is that her mother by name Radha Ramadurai had immigrated to U.S.A in the year 1975 and was residing at 13402, Cedar Creek Lane, Silver Spring, Maryland - 20904, U.S.A. It is the further case of the petitioner that she along with her brothers have also immigrated to U.S.A. in the years 1970, 1978 and 1979 respectively. It is further stated by the petitioner that her mother had purchased a vacant land at V.G.P. Layout, Uthandi, Chennai-600 119, by way of registered sale deed dated 03.11.2003 registered at the office of the Sub-Registrar, Neelankarai and put up a construction therein. It is also stated that during the petitioner's lifetime, she executed a Will on 17.12.2012 in favour of her legalheirs. It is stated that the petitioner's mother viz., Radha Ramadurai died on 05.04.2018 due to Cardio Shock at U.S.A and a death certificate was issued on 13.04.2018 by the State of Maryland, Department of Health and Mental Hygiene, Division of Vital Records. It is also claimed by the petitioner that the Will was Probated by the Register of Wills for Montgomery Country, Maryland and Letters of Administration to the Estate of her mother was issued to the petitioner on 20.04.2018. Based on those documents, the petitioner approached the second respondent for issuance of the Legal Heirship Certificate on 22.11.2019. However, the said application was returned on the reason that the petitioner is a permanent Citizen of U.S.A. and that the deceased had not stayed, before her death, for more than 6 months within the jurisdiction of the second respondent. The petitioner, thereafter, made another application on 07.01.2020 and furnished all necessary documents. The grievance of the petitioner is that the second respondent has not issued the Legal Heirship Certificate so far, based on the application dated 07.01.2020.

3. The learned Additional Government Pleader for the respondents submitted that as per the recent Circular issued, the petitioner is not entitled to get the Legal Heirship Certificate, since the deceased was not ordinarily residing within the jurisdiction of the second respondent before her death.

4. Admittedly, the application filed by the petitioner seeking for Legal Heirship Certificate before the second respondent is not visited with any order passed by the second respondent so far, either granting such certificate or refusing to do so. The present writ petition is filed seeking only for mandamus as stated supra. If an application is filed seeking for Legal Heirship Certificate, the second respondent, based on the materials placed by the applicant, has to consider and pass orders on such application on merits and in accordance with law and communicate the same to the petitioner, so as to enable the petitioner to work out her remedy, if such order goes against her interest. In this case, it is seen that no such order is

passed by the second respondent so far. Therefore, without expressing any view on the merits of the claim made by the respective parties, this Writ Petition is disposed of, only by directing the second respondent to consider the application of the petitioner and pass orders on the same on merits and in accordance with law.

5. The learned counsel for the petitioner submitted that the petitioner herself will also make a fresh application in person before the second respondent within a period of three weeks.

6. The said statement is recorded. Accordingly, this Writ Petition is disposed of under the following terms:

(a) The petitioner is permitted to make a fresh application along with necessary documents in support of her claim before the second respondent within a period of three weeks from the date of receipt of a copy of this order.

(b) On receipt of such application, the second respondent shall consider the same along with documents filed in support thereof and pass orders on merits and in accordance with law, within a period of four weeks thereafter.

7. It is made clear that this Court is not expressing any view on the rival claim made by the respective parties as of now, since an order is yet to be passed by the second respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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Department of Revenue
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Fort St.George, Chennai-600 009.

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Sholinganallur Taluk
Sholinganallur, Chennai-600 119.

3.The Village Administrative Officer
Sholinganallur II & Uthandi Village
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Chennai-600 119.

+lcc to Mr.Venkatesh Mahadevan, Advocate, S.R.No.21464
+lcc to the Government Pleader, S.R.No.21665

W.P.No.3150 of 2020

AD(CO)
CS/12/03/2020