

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.5883 of 2020

P.Riza Ahmed
S/o.P.Mohammed Ismail

...Petitioner

Vs.

The Thasildar
Walajah Taluk
Walajah, Ranipet District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the respondent herein in his proceedings in AA3/283/2020 dated 01.2020 and quash the same and consequentially, direct the respondent to issue the Legal Heir Certificate in favour of the petitioner and his sisters as Class-II Legal Heirs of the deceased Raziya Begum, W/o.Mohammed Athar Basha, who died on 28.02.2009.

For Petitioner : Mr.S.Sathish Rajan
For Respondent : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the order dated 28.01.2020 passed by the respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

3. According to the petitioner, his sister viz., Raziya Begum and his brother-in-law viz., Mohammed Athar died on 28.02.2009 and 19.04.2016 respectively. The petitioner is the brother of the deceased viz., Raziya Begum, who died on 28.02.2009 without

any issues. After her death, the petitioner filed an application on 21.10.2019 seeking for issuance of legal heirship certificate for his deceased sister viz., Raziya Begum. Based on the application, an enquiry was conducted and the respondent-Tahsildar passed an order dated 28.01.2020 rejecting his application on the ground that since the petitioner is not the direct legal heir of the deceased Raziya Begum and as per the Circular No.11/2017 and the order of the Commissioner of Revenue Administration dated 09.08.2017, Class-II legal heirship certificate cannot be issued to the petitioner. Challenging the said order, the present writ petition is filed.

4. Heard both sides.

5. Admittedly, the petitioner is not the Class-I legal heir of the deceased Raziya Begum, being the brother, he is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is a married person and she has no other legal heirs except her brother. Since in the absence of any other Class-I legal heir, there is no impediment for the respondent/Tahsildar to consider the said request as per the guidelines issued by the Government, which reads as follows:

"1. As per the present procedure the Tahsildar has to issue the legal heirship certificate to the direct heir.

2. The Tahsildars should avoid issuing legal heirship certificate in respect of the following items mentioned below, apart from the direct heirs and the applicants should be instructed to get the certificate through the Civil Court.

"a. If there are more than one wife/husband for the deceased, and even if they have children and if it is evident that there is a partition dispute among them.

b. When there is a condition to issue heir certificate for the person, who has left the family for seven years by deeming that person to be dead.

c. If a person is residing in other District, and does not have the residence within the limits of the Taluk and if he is not in possession of a house or property, and does not attend the enquiry to give his statement to the Tahsildar.

d. If the deceased does not have children and brings up other children."

6. Even as per the above guidelines, the respondent/Tahsildar should avoid issuing legal-heir certificate falling under the above four categories only. Since the

petitioner does not fall under anyone of the above categories, the impugned order is set aside and the matter is remitted back to the respondent/Tahsildar to reconsider the claim of the petitioner in the light of the observation stated supra and pass appropriate orders on merits and in accordance with law, after conducting enquiry and verifying the fact whether any other legal-heirs are available for the deceased, within a period of 8 weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of.
No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

mk

To

The Thasildar

Walajah Taluk

Walajah, Ranipet District.

+1CC to Mr.S.Sathish Rajan, Advocate (SR.No.20334)

+1CC to the Government Pleader (SR.No.20666)

W.P.No.5883 of 2020

cp (CO)

BRI (20/05/2020)

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