

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.5911 of 2020

Aandal
W/o.Dhanapal

...Petitioner

Vs.

1.The Head Quarters Deputy Tahsildar
Madurantakam Taluk
Madurantakam
Chengalpattu District.

2.The Revenue Inspector
Zamin Endathur Village
Madurantakam Taluk
Chengalpattu District.

3.The Village Administrative Officer
Zamin Endathur Village
Madurantakam Taluk
Chengalpattu District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order of rejection in TN-7201912182249 dated 15.01.2020 and quash the same as arbitrary and unreasonable and consequently, direct the respondents to issue the Legal Heir Certificate of the petitioner's brother Late Madhavan, based on her application dated 18.12.2019 made through online, within a time stipulated by this Court.

For Petitioner : Mr.K.Balasubramaniam

For Respondents: Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for the respondents. 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 15.01.2020 rejecting the petitioner's request for issuing the legal-heir Certificate.

3. According to the petitioner, her brother viz., R.Madhavan died on 11.09.2017. The petitioner is the sister of the deceased viz., Madhavan, who died on 11.09.2017 without any issues. It is stated that R.Madhavan was married to one Shantha and she predeceased Madhavan i.e. on 14.07.2012. After the death of Madhavan and Shantha, the petitioner made online application on 18.12.2019 seeking for issuance of legal heirship certificate for her deceased brother viz., R.Madhavan. Based on the application, an enquiry was conducted and an order dated 28.01.2020 was passed by rejecting her application on the ground that since the petitioner is not the direct legal heir of the deceased Madhavan 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 R.Madhavan, being the sister, she is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is a married person and he has no other legal heirs except his sister. Since in the absence of any other Class-I legal heir, there is no impediment for the respondents 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 respondents 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 respondents 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/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

mk

To

1.The Head Quarters Deputy Tahsildar
Madurantakam Taluk
Madurantakam
Chengalpattu District.

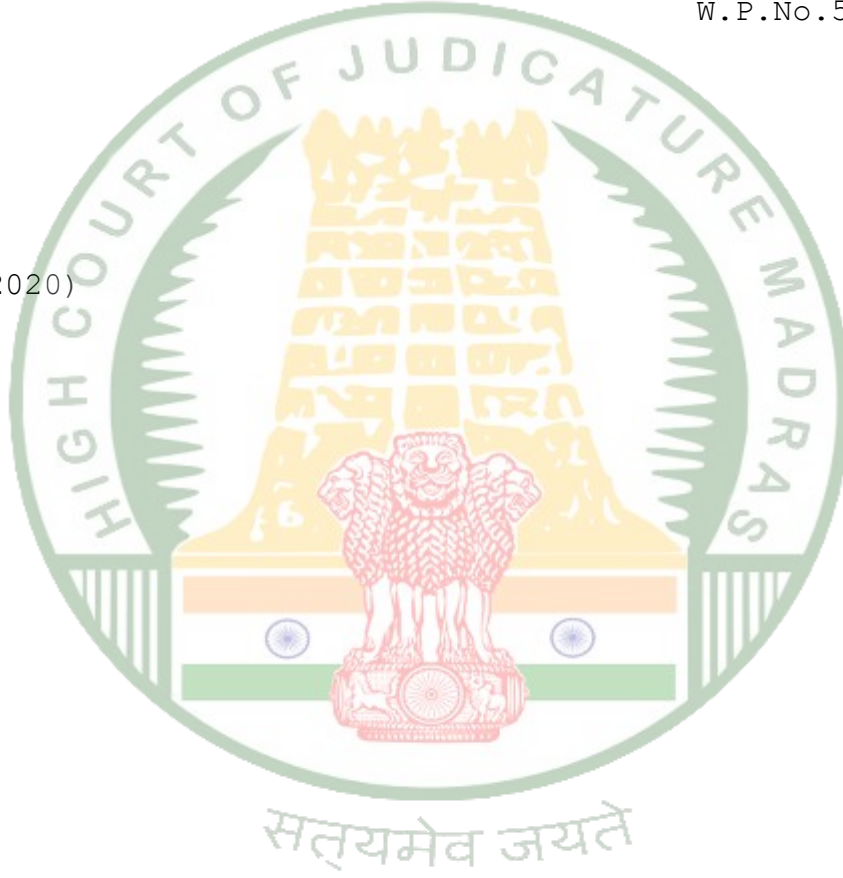
2.The Revenue Inspector
Zamin Endathur Village
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Chengalpattu District.

3.The Village Administrative Officer
Zamin Endathur Village
Madurantakam Taluk
Chengalpattu District.

+1cc to M/s.K.Balasubramaniam, Advocate, Sr.No.19979
+1cc to Government Pleader,Sr.No.20667

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VSNI (CO)
GS (22/05/2020)



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