

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.27208 of 2016

1. K. Lakshminarayanan
2. Lekshmy Ammal

... Petitioners

Vs

1. The Thasildar,
Alandur Taluk,
Kancheepuram District.

2. Revenue Inspector,
Alandur Firka,
Alandur Taluk,
Kancheepuram District.

3. The Village Administrative Officer,
No.10, Adambakkam Village,
Alandur Taluk,
Kancheepuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioners' application dated 21.01.2016 given to first respondent and issue the legal heirship certificate to the petitioners as Class II Legal heirs of the deceased K.Subramony Iyer.

For Petitioners : Mr.V.V.Giridhar

For Respondents : Mr.R.S.Selvam,
Government Advocate

ORDER

This writ petition has been filed for a Mandamus to direct the respondents to consider the petitioner's application dated 21.01.2016 for issuance of Legal Heirship Certificate in their name.

2. It is the case of the petitioners that their brother K.Subramony Iyer died intestate on 23.05.2015 at Plot No.18,

Balaji Nagar Extension, First Street, Adambakkam, Chennai - 600 088 at the age of 77 years. According to the petitioners, the deceased K.Subramony Iyer died issueless and his wife also died subsequently on 21.11.2015. According to the petitioners, since there are no Class - I Legal Heirs for K.Subramony Iyer, as brother and sister of the deceased K.Subramony Iyer, they have applied for Legal Heirship Certificate as Class II Legal Heirs on 21.01.2016 and the same was rejected by the respondents. However, it is their case that the first respondent rejected the application on the ground that the petitioners are Class II Legal Heirs and no Legal Heirship Certificate can be issued in their favour. Aggrieved by the same, this writ petition has been filed.

3. A counter affidavit has been filed by the first respondent stating that K.Subramony Iyer, the deceased had four siblings and out of them, three of them have already expired. It is the case of the respondents that they do not know as to whether the deceased siblings have left behind any Legal Heirs and in that case according to the respondents they are also Class II Legal heirs. Since the same has not been disclosed in the affidavit filed in support of the writ petition, the petitioners are not entitled to Legal Heirship Certificate.

4. Heard Mr.V.V.Giridhar, learned counsel for the petitioners and Mr.R.S.Selvam, learned Government Advocate for the respondents.

5. The learned counsel for the petitioners drew the attention of this Court to two Single Bench judgments of this Court in the case of a) Naziruddhin versus The District Collector, Trichirappali District and others, passed in WP MD No.24676 of 2019 dated 21.11.2019 and b) Sundaramoorthi versus District Collector, Dindigul and two others passed in WP MD No.15211 of 2018 dated 01.08.2018 and submitted that in identical matters, this Court directed the Tahsildar to consider the application for issuance of Legal Heirship Certificate for Class II Legal heirs also.

6. This Court has also perused and examined the aforesaid judgments and is in agreement with the same.

7. The learned Single Judges in the respective decisions cited supra have considered the Circular dated 28.11.1991 issued by the Commissioner of Revenue Administration directing the Tahsildar not to issue Legal Heirship Certificate to Class - II Legal heirs which is similar to the Circular relied upon by the learned Government Advocate for the respondents and overruled the said Circular and thereafter, directed the Tahsildar to consider the application for Legal Heirship certificate for

Class II Legal Heirs also as there is no statutory bar to issue legal heirship certificate for class II legal heirs.

8. Since the case on hand is also identical in nature, this Court directs the first petitioner to submit a fresh application for Legal Heirship certificate for the deceased Subramony Iyer, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent shall consider the application of the petitioner and after holding an enquiry pass final orders for issuance of Legal Heirship certificate, within a period of eight weeks thereafter.

9. With the aforesaid directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Thasildar,
Alandur Taluk,
Kancheepuram District.

2. The Revenue Inspector,
Alandur Firka,
Alandur Taluk,
Kancheepuram District.

3. The Village Administrative Officer,
No.10, Adambakkam Village,
Alandur Taluk,
Kancheepuram District.

+1cc to Mr.V.V.Giridhar, Advocate, S.R.No. 17991
+1cc to the Government Pleader, S.R.No. 17767

W.P. No.27208 of 2016

PM(CO)
GN(26/05/2020)