

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8770 of 2020

and

WMP No.10646 of 2020

K.Sankaranarayanan

...Petitioner

Vs.

1.The District Collector,
Chennai District,
District Collector Office Chennai,
No.62, Rajaji Salai, Fourth Floor,
Chennai 600 001.

2.The Thasildar
Mambalam Taluk Office
Bharathidasan Road, (60 feet road),
West Jafferkanpet, Chennai 600 083.

...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 pertaining to the impugned order passed by the second respondent in O.Mu No.E1/4732/2019 dated 06.03.2020 and to quash the impugned order of the respondent and consequently direct the respondent to issue the Legal Heir Certificate to the petitioner as per the Hindu Succession Act within a time frame fixed by this Court.

For Petitioner : Mr.G.Vijayakumar

For Respondents: Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 06.03.2020 passed by the second respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

2. According to the petitioner, his brother K.Ramaswamy died on 27.10.2019, leaving behind the petitioner as only surviving class II legal heir. After his death, the petitioner filed an application on 20.11.2019 seeking for issuance of legal heirship certificate for his deceased brother viz., K.Ramaswamy. Based on the application, an enquiry was conducted and the respondent-Tahsildar passed an order dated 06.03.2020 rejecting his application on the ground that since the petitioner is not the direct legal heir of the deceased K.Ramaswamy 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.

3. Heard both sides.

4. Admittedly, the petitioner is not the Class-I legal heir of the deceased K.Ramaswamy, being the brother, he is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is unmarried person and he has no other legal heirs except the petitioner. 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."

5. 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. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Chennai District,
District Collector Office Chennai,
No.62, Rajaji Salai, Fourth Floor,
Chennai 600 001.
- 2.The Thasildar
Mambalam Taluk Office
Bharathidasan Road, (60 feet road),
West Jaffer Khanpet, Chennai 600 083.

W.P.No.8770 of 2020

WEB COPY

rsv[col]
srg 25/08/2020