

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11474 of 2020
and
W.M.P.No.14007 of 2020

P.Leonidas Prem Chandar
Son of Late.Pankrose
No.14, Rose Cottage,
Viswanathan Cross Street,
Radha Nagar,
Chromepet,
Chennai - 600 044

....Petitioner

Vs.

The Thasildar
Pallavaram.

....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 relating to the order dated 22.06.2020 made in Na.Ka.No.991/2020/A4 passed by the respondent herein, quash the same and direct the respondent to issue legal heir certificate for the deceased P.Lionel Pandian, as per Indian Succession Act, 1925.

For Petitioner : Mr.S.Senthilnathan

For Respondent : Mr.R.Govindasamy
Special Government Pleader

O R D E R

This matter is taken up for hearing through Video-Conferencing mode.

2. This writ petition has been filed challenging the order dated 22.06.2020 passed by the respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

3. According to the petitioner, his father and mother have three children viz., the petitioner, his brother, P.Lionel Pandian and his sister, Lilyan Swarna Kalai. His father and

mother died on 18.06.2009 and 02.02.1997 respectively. His brother P.Lionel Pandian married one G.Greeny and they got divorce as per Lok Adalat award dated 17.11.2006 made in IDOP.No.114 of 2005. They do not have any children and his brother did not marry again. While so, his brother P.Lionel Pandian died on 21.10.2017 as a bachelor and the Greater Chennai Corporation had issued death certificate of his brother bearing Registration No.2017/15/195/000109/0. The petitioner family belongs to Christian religion and as per Section 47 of the Indian Succession Act, the petitioner and his sister are the only legal heirs of the deceased P.Lionel Pandian. The petitioner gave a representation dated 17.03.2020 to the respondent requesting to issue legal heir certificate for his deceased brother P.Lionel Pandian. Based on the application, an enquiry was conducted and the respondent-Tahsildar passed an order dated 22.06.2020 rejecting his application on the ground that there is no direct legal heir for the deceased P.Lionel Pandian 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 and his sister are not Class-I legal heir of the deceased P.Lionel Pandian, being the brother and sister and they are only Class-II legal heirs. Though the deceased P.Lionel Pandian was married, he got divorce and died issueless and did not marry again. 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 eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mk/vsi

To

The Thasildar
Pallavaram.

+1cc to Mr.S.Senthil Nathan , Advocate SR.No. 29463

A.SK(06/11/2020) W.P.No.11474 of 2020