

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.12462 2020

and

WMP No.15377 of 2020

1. T.M.Ananth
S/o.Late T.S.Murthy Rao
 2. T.S.Thara
D/o.Late T.S.Murthy Rao
 3. C.Shoba
W/o.K.Chandrasekar
 4. T.M.Murali
S/o.Late T.S.Murthy Rao
 5. V.Srinivas
S/o.T.S.Viswanathan
- ...Petitioners

.Vs.

The Thasildar
Mambalam Taluk
Chennai 600 078.

...Respondent

Prayer: 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 impugned order of the respondent made in O.Mu.E1/4733/2019 dated 24.02.2020, quash the same and consequently, direct the respondent to issue legal heirs certificate to the petitioners within the time specified by this Court.

For Petitioners : Mr.R.Prabhakar
For Respondent : Mr.D.Suriyanarayanan
Additional Government Pleader

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O R D E R

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

2. Mr.D.Suriyanarayanan, 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.

3. This writ petition has been filed challenging the order dated 24.02.2020 passed by the respondent/Tahsildar rejecting the petitioners' request for issuing the legal-heir Certificate.

4. According to the petitioners, their parents viz. T.S.Murthy Rao and T.S.Suguna are having six children viz., T.S.Viswanathan, (Deceased)/father of the fifth petitioner, T.S.Sundar (Deceased), T.S.Thara/2nd petitioner, C.Shoba/3rd petitioner, T.M.Anand/1st petitioner, T.M.Murali/4th petitioner and they died on 30.09.1980 and 13.11.2009 respectively. The elder brother T.S.Viswanathan died on 14.12.2005 and his wife S.Rajeswari also died on 01.12.2011, leaving behind the fifth petitioner as the sole legal heir. The second elder brother of the 1st petitioner viz., T.S.Sundar was unmarried and died intestate on 25.05.2016, leaving behind the petitioners as legal heirs. After his death, the petitioners filed an application on 03.12.2019 seeking for issuance of legal heirship certificate for his deceased brother viz., T.S.Sundar. Based on the application, an enquiry was conducted and the respondent-Tahsildar passed an order dated 24.02.2020 rejecting their application on the ground that since the petitioners are not the direct legal heirs of the deceased T.S.Sundar 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 petitioners. Challenging the said order, the present writ petition is filed.

5. Heard both sides.

6. Admittedly, the petitioners are not the Class-I legal heir of the deceased T.S.Sundar, being the brothers and sister, they are only the Class-II legal heirs. However, as claimed by the petitioners, the deceased is unmarried person and he has no other legal heirs except the petitioners. 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."

7. 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

//True Copy//

Sub Assistant Registrar

To

The Tahsildar
Mambalam Taluk
Chennai 600 078.

+1cc to Mr.R.Prabakar, Advocate, Sr.No.29460

+1cc to Government Pleader, Sr.No.29642

W.P.No.12462 of 2020

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