IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.NO.17783 OF 2019
(HEARD THROUGH VC)

M.Ramesh Kumar .. Petitioner

Vs.

1. The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.

2. The District Collector,
Kancheepuram District,
Kanheepuram.

3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

4. The Revenue Divisional Officer,
Tambaram, chennai 600 045.

5. The Tahsildar,
Tambaram Taluk, Tambarama,

6. The Commissioner,
Tambaram Municipality,
Tambaram.

7. Dhanabaggiam

8. Suresh Kumar
(Respondents 7 and 8 are impleaded,
vide order dated 09.07.2019 made in
W.M.P.No.18603 of 2018 in W.P.No.17783 of 2019)

9. The Judicial Magistrate,
Tambaram, Kancheepuram District. .. Respondents
(R9 impleaded as per order dated 22.10.2019
in W.M.P.No.26204 of 2019 in W.P.No.17783 of 2019
by PDAJ)

PRAYER:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first respondent to consider the claim of the petitioner for cancellation of illegal legal heirship certificate and his Death Certificate, issued by the Tahsildar and Municipal Commissioner, in the light of his representation dated 28.03.2019 and pass orders thereon within a limited time frame.

For Petitioner	:	Mr.P.Murali
For Respondents-1-5	:	Mr.R.S.Selvam, Govt.Advocate
For Respondent-6	:	Mr.P.Srinivas
For Respondent-9	:	Mr.M.Santhanaraman
For Respondents 7 & 8	:	Not ready in notice

ORDER

The Writ Petition is filed seeking a mandamus to direct the first respondent to consider the claim of the petitioner for cancellation of illegal legal heirship certificate and his Death Certificate, issued by the Tahsildar and Municipal Commissioner, in the light of his representation dated 28.03.2019 and pass orders thereon within a time frame.

2. The petitioner is born to one Muthusamy and Dhanabaggiam. The petitioner also had one brother, called, Suresh Kumar. The said Muthusamy died on 17.02.2001. The petitioner was living away from the family. Taking advantage of that, it is stated that the mother Dhanabaggiam and the brother Suresh Kumar, who are the respondents 7 and 8 herein, had obtained a legal heirship certificate of the deceased father, who died on 17.02.2001. The respondents 7 and 8 had suppressed the fact that there was one more son born to the said Muthusamy.

3. In the meanwhile, the mother of the petitioner had gone to an extent of getting a death certificate stating that her own son, namely, the petitioner himself died on 20.10.2009, pursuant to the filing of a case before the Judicial Magistrate, Tambaram on 22.02.2011 in Crl.M.P.No.8265 of 2010 seeking a direction to the Municipal Authorities to issue the death certificate. Based on the said order, a death certificate was also issued in Certificate No.96/2011/02 dated 03.03.2011, as if the petitioner died on 20.10.2009. Similarly, a legal heirship certificate for the death of Muthusamy was also obtained by the 7th and 8th

respondents from the Tahsildar, Tambaram on 07.12.2007 excluding the name of the petitioner. This fact was made known to the petitioner only when he wanted to ascertain the status of his ancestral properties. Thereafter, the petitioner had to obtain the Encumbrance Certificate in respect of the ancestral properties and get the copy of the sale documents.

4. The petitioner seems to have written a detailed letter to the second respondent/District Collector, Kancheepuram, who had rejected the same in his proceedings in No.Mu.Mu.No.22543/ 2018/y1 dated 04.12.2018 only on the ground of limitation. Even when the fraud was brought to the knowledge of the District Collector, Kancheepuram, instead of dealing with the same by punishing his erring Subordinate Officers, he rejected the claim of the petitioner. The petitioner also seems to have given a representation dated 28.03.2019 to the Commissioner of Revenue Administration, Chepauk, Chennai for which, also there is no response. Hence, the petitioner has moved this Court seeking a direction to the first respondent to consider the claim of the petitioner for cancellation of the certificates issued by the authorities (i) death certificate of the petitioner himself and (ii) the legal heirship certificate issued by the Tahsildar.

5. Pending this Writ Petition, the learned counsel appearing for the sixth respondent /Commissioner, Tambaram Municipality, stated that entry made for the death of the petitioner was deleted on 25.11.2019, though the sixth respondent in R.O.C.No.0555/2011/H1 dated 24.01.2011, which was sent to the Judicial Magistrate, Tambaram/9th respondent forwarded the report of the Sanitary Inspector to the effect that the petitioner died and requested the Court to pass orders to register the death.

6. Now what remains is the legal heirship certificate which was issued in favour of the respondents 7 and 8.

7. At this juncture, it is pertinent to note that the Revenue Department in G.O (Ms) No.2906, dated 04.11.1981, had empowered the jurisdictional Tahsildar/Deputy Tahsildar to issue Legal heirship Certificate. The Government issued guidelines, which have to be followed by the Revenue officials, while considering the issuance of Legal Heir Certificate, in the said G.O., which have been reinstated in the Government Letter No.1534, dated 28.11.1991. The Guidelines were annexed to the said Letter and the some of which, which are relevant, reads as follows:

"ANNEXURE

GUIDELINES

......

3. The person requesting for the legal heirship

certificate for the direct heirs, should annexe the death certificate of the deceased person, affix the stamp and send an application to the Tahsildar concerned. The applications received accordingly shall be sent to the Revenue Inspector concerned for conducting proper enquiry.

4. On receiving the application from the Tahsildar concerned, the Revenue Inspector and the Village Administrative Officer shall go to the residential address of the petitioner concerned and first conduct enquiry with the petitioner and all the members of his family, his relatives, neighbours and local people and obtain their statements. The ration card, its properties belonging to the deceased, the will, wedding invitations and other documents left behind by the deceased shall be properly scrutinized and the reports regarding the persons who are the legal heirs of the deceased and their details shall be consolidated and sent to the Tahsildar.

5. As soon as the report of the Revenue Inspector is received, the Tahsildar should scrutinize it properly. After scrutiny, the legal heirs of the deceased person, should be confirmed with certainty. In case of suspicion, the Tahsildar can ask the petitioner concerned or his family members, relatives or the local people belonging to that place, or ask and get some other documents and arrive at a decision.

6. The legal heir certificate should be issued only after arriving at a decision as to who are the legal heirs of the deceased without giving any room for suspicion."

8. In this regard, a Circular Instructions No.11/2017, RA 5 (3)/180/2017, dated 09.08.2017, was also issued and the relevant portion of the same is reproduced hereunder :

"Legal Heirship Certificate:

(a) ..... The application shall be forwarded to the Revenue Inspector to enquiry all legal heirs, neighbours, other villagers and the Village Administrative Officer in detail. On receipt of report a certificate mentioning the names of all natural legal heirs will be issued by the Taluk/Tahsildar (G.O.Ms.No.2906, Revenue, dated 4.11.1981).

9. Recently, in Circular No.9/2019/Rc.No.RS.5(3)/180/2019,

dated 24.09.2019, the CRA issued revised guidelines and instructions for issuance of legal heir certificate through online. The CRA proceeded to explain who are all direct legal heir, i.e., Class I legal heirs, and who are all indirect legal heir, i.e., Class II legal heirs in terms of Section 8 of the Hindu Succession Act, 1956.

10. As per the said guidelines and instructions, it is imperative on the part of the field level officials, like the Village Administrative Officer and the Revenue Inspector to go to the residential address of the petitioner concerned to conduct enquiry with the petitioner and all the members of his family, his relatives, neighbours and local people and obtain their statements, whereupon, they can scrutinize the relevant documents properly and after consolidating the details regarding the persons who are the legal heirs of the deceased, they could submit a report to the Tahsildar, who, in turn, based on the findings of the report, shall issue the legal heirship certificate. If the guidelines issued by the first respondent are scrupulously followed by those officials in the case on hand, the legal heirship certificate dated 07.12.2007 either would not have been issued or would have been issued by including the name of the petitioner. It is surprising to note that when in so many deserving cases, the applications for legal heir certificate were rejected by the revenue officials citing one reason or the other, the respondents 7 and 8 have been issued with one such certificate without any query or murmur by the revenue authorities.

11. It is also shocking to note that the seventh respondent in Crl.M.P.No.8265 of 2020 repeatedly stated that the petitioner died on 20.01.2009 and also went to the extent of deposing the same before the Court, for which, she is liable for punishment for perjury. As stated above, the concerned Sanitary Inspector has also allegedly submitted a report to the sixth respondent as if the petitioner died on 20.01.2009, which was forwarded to the ninth respondent based which, the order 22.02.2010 in Crl.M.P.No.8265 of 2010 was passed. When the said judicial order passed by the competent criminal court is not set aside or modified by the same Court or any other Court, the sixth respondent could not have passed the order 25.11.2019 deleting the entry, which was made based on such judicial order. In such circumstances, it is open to the petitioner to take out any appropriate petition before the ninth respondent/Judicial Magistrate, Tambaram, for recalling the order dated 22.02.2010, which shall be dealt with in accordance with law and based on the result of such petition, the sixth respondent shall pass orders deleting the entry made in Death Register No.96/2011/02 and recall the death certificate issued for the petitioner.

12. The sixth and ninth respondents are directed to take appropriate action against the concerned Sanitary Inspector and the seventh respondent respectively in accordance with law for the alleged illegalities committed by them.

13. In such circumstances, as it is claimed that the petitioner is also one of the legal heirs, it only remains that the Tahsildar has to include the name of the petitioner also in the legal heirship certificate and issue a fresh legal heirship certificate to the petitioner and the respondents 7 and 8, cancelling the earlier one issued on 07.12.2007.

14. Accordingly, the Tahsildar, Tambaram Taluk, who is the fifth respondent, is directed to conduct an enquiry with the petitioner and the mother and brother of the petitioner, after giving an opportunity of personal hearing to them and after arriving at the subjective satisfaction, shall cancel the earlier legal heirship certificate issued on 07.12.2007 and issue the fresh legal heirship certificate in accordance with law.

15. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.

2. The District Collector,
Kancheepuram District, Kanheepuram.

3. The Superintendent of Police,
Kancheepuram District, Kancheepuram.

4. The Revenue Divisional Officer,
Tambaram, Chennai 600 045.

5. The Tahsildar,
Tambaram Taluk, Tambaram,

6. The Commissioner,
Tambaram Municipality, Tambaram.

7. The Judicial Magistrate,
Tambaram, Kancheepuram District.

+1cc to Mr.P.Murali, Advocate, S.R.No.40990
+1cc to Mr.P.Srinivas, Advocate, S.R.No.41428
+1cc to the Government Pleader, S.R.No.41076

KV(CO)
CS/22/01/2021