

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.20875 of 2019

T.Thirumathal
W/o.Thirumoorthy

...Petitioner

Vs.

1.The Tashildar
Taluk Office
Pollachi Taluk
Coimbatore District.

2.The Revenue Inspector
Pollachi South Circle
Pollachi Taluk
Coimbatore District.

3.The Village Administrative Officer
Suleswaranpatti Village
Pollachi Taluk
Coimbatore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent, relating to denial of legal heir certificate vide Letter O.Mu.831/2019/A2 dated 15.03.2019, quash the same and consequently, direct the 1st respondent to issue legal heir ship certificate to the petitioner.

For Petitioner : Mr.P.Saravanan
For Respondents: Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 15.03.2019 passed by the first respondent/Tahsildar rejecting the petitioner's request for issuing the legal-heir Certificate.

2. According to the petitioner, her father, mother and elder brother expired on 20.09.2000, 28.04.1990, 07.08.1995 respectively. The petitioner is the brother of the deceased viz., Muthusamy, who died on 25.02.2011 without any issues. After his death, the petitioner filed an application on 01.03.2019 seeking for issuance of legal heirship certificate

for her deceased brother viz., Muthusamy. Based on the application, an enquiry was conducted and the first respondent-Tahsildar passed an order dated 15.03.2019 rejecting her application on the ground that since the petitioner is not the direct legal heir of the deceased Muthusamy 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 Muthusamy, being the sister, she is only the Class-II legal heir. However, as claimed by the petitioner, the deceased is a bachelor and he has no other legal heirs except his sister. Since in the absence of any other Class-I legal heir, there is no impediment for the first 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 first 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 first 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Tashildar
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Pollachi Taluk
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3.The Village Administrative Officer
Suleswaranpatti Village
Pollachi Taluk
Coimbatore District.

+1cc to Mr.P.Saravanan, Advocate, S.R.No.20984

+1cc to the Government Pleader, S.R.No.21165

GP (CO)

rli (20/05/2020)

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