

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.02.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.7488 of 2017

B.Paramasivam

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Vs

Petitioner

The Tahsildar
Poonamallee Taluk,
Poonamallee,
Thiruvallur District.

Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for an issuance of a writ of Certiorarified Mandamus calling for the records of the respondent relating to the order in Na.Ka.No.10750/2015/A4 dated .11.2015 (signed on 18.1.2016) to quash the same and issue direction to the respondent to consider the issue a fresh and pass fresh orders within a limited time frame for the issue of Legal Heirship Certificate to the petitioner as prayed for.

For Petitioner : Mr.G.Punniakoti
For Respondent : Mrs.K.Bhuvaneshwari

ORDER

This writ petition has been filed challenging the impugned order of the respondent rejecting the request made by the petitioner for issuance of a legal heirship certificate for his deceased mother Mariammal.

2.It is the case of the petitioner that his mother viz., Mariammal died on 26.10.1998 and his father Balakrishnan pre-deceased his mother on 02.05.1996. According to the petitioner, one female and two male children were born to his parents, who were (i).P.Kamatchi w/o.Pandurangan (daughter), (ii).B.Sundarraaj (son) and (iii).B.Paramasivam, the petitioner herein. According to the petitioner, his sister viz., P.Kamatchi also died on 21.08.2014. Hence, the petitioner and his brother B.Sundarraaj are the only surviving legal heirs of their deceased mother viz., Mariammal. According to the petitioner, he applied for a legal heirship certificate for his deceased mother Mariammal on 12.10.2015 with the respondent. However, by the impugned order, the respondent has rejected the application on the ground of laches as the application was filed after 17 years from the

date of the death of Mariammal. Aggrieved by the same, this writ petition has been filed.

3. Heard Mr.G.Punniakoti, learned counsel appearing for the petitioner and Mrs.K.Bhuvaneshwari, learned counsel appearing for the respondent.

4. Admittedly, the only ground for rejection of the request made by the petitioner for issuance of legal heirship certificate is that an application has been submitted after the lapse of 17 years subsequent to the death of Mariammal on 26.10.1998. The application filed by the petitioner for legal heirship certificate was made on 12.10.2015. This Court is of the considered view that the respondent ought not to have rejected the application only on the ground of delay, as admittedly the petitioner is the son of the deceased Mariammal and is entitled to obtain the legal heirship certificate for his deceased mother. Further, when there is no statutory time limit fixed to seek a legal heirship certificate, the respondent ought not to have rejected the application. However, it is for the petitioner to satisfy the respondent with supporting documentary evidence that he along with his brother B.Sundarraaj are the only legal heirs of the late Mariammal. By total non-application of mind, the respondent has arbitrarily rejected the application for legal heirship certificate submitted by the petitioner.

5. For the forgoing reasons, the impugned order Na.Ka.No.10750/2015/A4 dated 11.11.2015 (signed on 18.1.2016) is hereby quashed. The matter is remitted back to the respondent for fresh consideration and the petitioner is directed to submit documentary evidence to the respondent to prove that he and his brother B.Sundarraaj are the only surviving legal heirs of their deceased mother Mariammal and the respondent is directed to pass final orders with regard to the application submitted by the petitioner seeking request for issuance of a legal heirship certificate for his deceased mother Mariammal, who died on 26.10.1998 after giving sufficient opportunity to the petitioner to produce relevant documentary evidence in support of his case, within a period of twelve weeks from the date of receipt of a copy of this Order.

6. With the aforesaid directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sms

To
The Tahsildar
Poonamallee Taluk,
Poonamallee,
Thiruvallur District.

+1cc to Mr.G.Punniakoti , Advocate SR.No. 10910
+1 cc to Government Pleader Sr.No. 11369

W.P.No.7488 of 2017

A.SK(16/03/2020)



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