

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.18958 of 2017

(Heard through VC)

K.Gunabalan

... Petitioner

Vs

The Tahsildar
Tambaram Taluk, Tambaram,
Kancheepuram District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the order in Na.Ka.No.3367/2017/A5 dated 6.1.2017 to quash the same and to remit the matter to the respondent for granting one more opportunity to the petitioner to prove his claim and pass appropriate orders on merits and in accordance with law within a time frame.

For Petitioner : Mr.G.Punniyakotti

For Respondent : Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

This writ petition is filed challenging the order passed by the respondent herein in Na.Ka.No.3367/2017/A5 dated 06.01.2017, rejecting the application made by the petitioner for issuance of Legal Heir Certificate for the death of his father and directing the applicants therein to go before the Civil Court.

2. The petitioner's father S.Karthikeyan died on 16.10.2015 and the petitioner's mother, namely Selvi, pre-deceased him on 26.10.2003. After the death of the first wife, namely petitioner's mother Selvi, the deceased Karthikeyan had married one Dhanalakshmi on 15.12.2004. The said Dhanalakshmi also is said to be no more and she died on 06.04.2010. Therefore, the petitioner has applied for issuance of Legal Heir Certificate, which was rejected by the Tahsildar, Tambaram stating that the deceased had two wives and that the parties have to work out their remedies only before the Civil Court.

3. The Tahsildar, Tambaram has not applied his mind to see that the second wife Dhanalakshmi was married by the deceased Karthikeyan only after the death of his first wife Selvi in the year 2003. Therefore, the children born to the second wife also would be the legal heir of the deceased Karthikeyan. However, the impugned order is passed without application of mind. Hence, the same is set aside and remitted back to the respondent-Tahsildar, to conduct an enquiry after affording an opportunity of personal hearing to the petitioner in the manner known to law and pass appropriate orders for issuing Legal Heirship Certificate, if otherwise, everything is in order. The above said exercise has to be completed within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above directions, the writ petition is allowed. No costs.

07.08.2020

After orders were pronounced in the open court on 07.08.2020, the learned Special Government Pleader, brought to the knowledge of this court that the Legal Heir Certificate, as required by the petitioner, was issued by the Tahsildar, Tambaram on 18.09.2019. The same is recorded in compliance with the order passed on 07.08.2020.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

asr/rsi

To
The Tahsildar,
Tambaram Taluk,
Tambaram.
Kancheepuram District.

A.SK(13/10/2020)

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