



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P. (MD)No.21735 of 2018

M.Alpadi @ Alagar

... Petitioner

-vs-

1.The Revenue Divisional Officer/
Sub Collector,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Kadaladi Taluk Office,
Kadaladi Post & Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's appeal dated 30.11.2017 and to pass orders within the stipulated time.

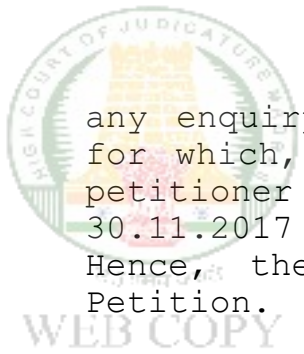
For Petitioner	: Mr.M.Saravanakumar
For Respondents	: Mr.M.Murugan Government Advocate

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's appeal dated 30.11.2017 and to pass orders within the stipulated time.

2.Heard the learned Counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.

3.It is represented by the learned counsel appearing for the petitioner that the petitioner's father died on 21.11.1999 leaving behind two sons and five daughters as legal heirs. However, the petitioner's five sisters have obtained a legal heirship certificate vide proceedings D.Dis/A1/23957/2013, dated 23.01.2014 issued by the second respondent, in favour of them by suppressing the fact that there are two male heirs of their father viz., the petitioner and his brother. When the petitioner had approached the second respondent seeking issuance of legal heirship certificate, the second respondent orally stated that the petitioner's sisters have made an application in 2014 and obtained legal heirship certificate. Therefore, the petitioner appealed before the second respondent that when there are two male legal heirs are there, how the legal heirship certificate was issued to his sisters without conducting



any enquiry and without including the petitioner and his brother, for which, the second respondent has not replied. Therefore, the petitioner approached the first respondent by way of appeal on 30.11.2017 which is also not considered by the first respondent. Hence, the petitioner has come forward with the present Writ Petition.

4.The learned Government Advocate appearing for the respondents would submit that in case, any discrepancy is found in the legal heirship certificate, an appeal has got to be filed within one year from the date of issuance of the legal heirship certificate, but, in this case the appeal was preferred after a period of more than three years. He has also produced a copy of the proceedings of the first respondent dated 30.11.2020 rejecting the appeal of the petitioner along with a circular dated 09.08.2017 issued by the Principal Secretary/Commissioner for Revenue Administration.

5.Though it is contended by the learned Government Advocate that the appeal has already been disposed of as early as on 30.11.2020, a perusal of the order shows that the appeal was dismissed on technical grounds stating that the appeal has been preferred by the petitioner after a period of seven years. Though there are circulars to the effect that the appeal has got to be made within one year, it is only a procedural aspect and it cannot be insisted upon as a rule. Definitely, there should be a time frame for the parties to approach the appellate authority and they cannot come at any point of time according to their will. Though the circular cannot be found fault with, the genuine reason for not approaching the appellate authority by the petitioner also needs to be considered. In this case, according to the petitioner, without his knowledge the second respondent had issued the legal heirship certificate. Therefore, this Court directs the first respondent to conduct an enquiry and pass orders within a period of 60 days from the date of receipt of a copy of this order, after affording an opportunity of hearing to the concerned parties.

6.With the above direction, the writ petition, is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

SRM



To

1.The Revenue Divisional Officer/
Sub Collector,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Kadaladi Taluk Office,
Kadaladi Post & Taluk,
Ramanathapuram District.

+1 CC to Mr.M.Saravanakumar,Advocate,SR.No.25466 dated 15/12/2020

+1 CC to M/s.SPL GP,SR.No.25558 dated 15/12/2020

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TP (CO)

KB(03.02.2021) 3P 5C