BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**10.09.2020**

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THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD) No.11048 of 2017

M.Ponnusamy ...Petitioner

Vs

The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the record of the respondent's Impugned order O.Mu/8484/2016(Aa1) dated 20.10.2016 and quash the same and direct the respondent to issue legal heir certificate for petitioner's deceased father Muthupandi Aasari, S/o. Karuppana Aasari died on 18.04.1975, within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.C.Ramesh
Special Government Pleader

ORDER

Challenging the order passed by the respondent in O.Mu/8484/2016(Aa1) dated 20.10.2016, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner would submit that the petitioner made a representation dated 01.07.2016 to the respondent for furnishing the legal heir certificate for his father, namely, Muthupandi Aasari, who died on 18.04.1975, leaving behind the following legal heirs:-

S.No	*Name of the legal heir*	*Age*	*Relationship*	*Status*
1	*M.Ponnusamy (petitioner herein)*	*74*	*Son*	*Married*
2	*M.Karuppasamy*	*.....*	*Son (deceased)*	*Married*
3	*M.Muthumariyappan*	*55*	*Son*	*Married*
4	*Pathalam*	*64*	*Daughter*	*Married*

3.The learned counsel would further submit that by proceedings dated 20.10.2016, the claim of the petitioner was rejected by the respondent on the ground that after a lapse of 39 years from the date of death of the petitioner's father, the petitioner has filed the said representation for issuance of legal heir certificate and therefore, the petitioner was advised to approach the civil Court. Challenging the same, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner in support of his contention would rely on the circulars in Circular Nos.11/2017 and 9/2019, R.C.No.Ra.5(3)/180/2017 issued by the Principal Secretary/Commissioner of Revenue Administration and Additional Chief Secretary/Commissioner of Revenue Administration respectively dated 09.08.2017 and 24.09.2019, wherein, the guidelines have been issued to process the application and to issue legal heir certificate to the applicant.

5.On a reading of the above circulars, it is seen that there is no bar on considering the petitioner's representation dated 01.07.2016, even though the same was submitted after a lapse of 39 years from the date of death of the petitioner's father.

6.The learned Special Government Pleader appearing for the respondent would submit that by considering the petitioner's representation dated 01.07.2016, the respondent had rightly rejected the claim of the petitioner, which does not warrant any interference of this Court.

7.Heard the learned counsel on either side.

8.On considering the aforesaid facts and from the materials available on record, it is seen that the respondent has not placed any material showing the reason for rejecting the representation of the petitioner, other than the ground that the petitioner has filed the said representation for issuance of legal heir certificate, after a lapse of 39 years from the date of death of his father. Therefore, in the absence of any provision or any guidelines issued by the Government, the respondent cannot reject the claim of the petitioner on the sole ground that he has filed the representation belatedly and advised the petitioner to approach the civil Court.

9.In view of the foregoing discussions and in view of the aforesaid circulars issued by the Government, this Court has no hesitation to quash the impugned order passed by the respondent in O.Mu/8484/2016(Aa1) dated 20.10.2016.

10.Accordingly, the Writ Petition stands allowed. The impugned order passed by the respondent in O.Mu/8484/2016(Aa1) dated 20.10.2016 is hereby quashed and the matter is remanded back to the respondent to consider the same afresh. The respondent is directed to consider the matter afresh and pass appropriate orders, by taking note of the aforesaid circulars in Circular Nos.11/2017 and 9/2019, R.C.No.Ra.5(3)/180/2017 issued by the Principal Secretary/Commissioner of Revenue Administration and Additional Chief Secretary/Commissioner of Revenue Administration respectively dated 09.08.2017 and 24.09.2019, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

+1 CC to SGP (SR-16675[F] dated 11/09/2020)

W.P.(MD) No.11048 of 2017

10.09.2020

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NR (05.10.2020) 3P 3C