

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1616 of 2021
and W.M.P.No.1832 of 2021

Iliaz Khan ... Petitioner

Vs

1. The Tahsildar,
Gudiyattam Taluk,
Gudiyattam - 632 602,
Vellore District.

2. The Village Administrative Officer,
Gandhi Road, Gudiyattam Town - 632 602,
Vellore District.

3. Reshma Banu, W/o.Hatheem Khan ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus forbearing the respondents 1 and 2 herein from in any way issuing legal heir certificate to the third respondent herein as the only legal heirs of deceased P.A.Hatheem Khan without following Mohammadan Law and including the brothers and sisters as legal heirs of A.Hatheem Khan, S/o.P.A.Mahaboof Khan Sahib, No.17, Punganoor Amman Koil Street, Chunnambupet, Gudiyattam - 603 202, Vellore District as per Mohammadan Law.

For petitioner

For respondents 1 and 2

For respondent-3

... Mr.K.A.Ravindran

... Mr.K.Parameshwaran

Government Advocate

... Served-No Appearance

ORDER

This Writ Petition has been filed for a mandamus to forbear the respondents 1 and 2 from in any way issuing legal heir certificate to the third respondent herein as the only legal heir of the deceased P.A.Hatheem Khan without following the

Muslim Law of Inheritance, which enables the brothers and sisters also to become the legal heirs of P.A.Hatheem Khan, who died issueless.

2. The petitioner claims that he is the brother of the deceased P.A.Hatheem Khan. According to him, his brother P.A.Hatheem Khan died issueless on 24.11.2019. According to him, as per the Muslim Law of Inheritance, since her brother has died issueless, the brothers and sisters of the deceased P.A.Hatheem Khan are also entitled to inherit the estate of the deceased P.A.Hatheem Khan apart from his wife. However, it is the contention of the petitioner that the first respondent is attempting to issue a legal heirship certificate disclosing only the third respondent, who is the wife of the deceased P.A.Hatheem Khan, as the only legal heir excluding the petitioner and his other brothers and sisters. The petitioner has given a representation on 11.01.2021 to the first respondent requesting him to include the name of the petitioner as well as other legal heirs also apart from the third respondent in the legal heirship certificate for the deceased P.A.Hatheem Khan. Since the representation has not been considered, this Writ Petition has been filed.

3. Heard Mr.K.A.Ravindran, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate appearing for the respondents 1 and 2.

4. The learned counsel for the petitioner would submit that the enquiry proceedings in the application submitted by the third respondent for issuance of legal heirship certificate for the deceased husband P.A.Hatheem Khan has already commenced before the first respondent and the first respondent has also attempted to issue the legal heirship certificate excluding the petitioner and other brothers and sisters of the deceased P.A.Hatheem Khan in the legal heirship certificate. He would submit that under the Muslim Law of Inheritance, since the deceased has died issueless, his wife and other brothers and sisters of the deceased are also entitled to inherit the estate of the deceased. According to him, the first respondent is attempting to issue the legal heirship certificate for the deceased P.A.Hatheem Khan disclosing the name of the third respondent alone excluding the petitioner and other brothers and sisters of the deceased P.A.Hatheem Khan.

5. No prejudice will be caused to the respondents 1 and 2, if the petitioner and other brothers and sisters of the deceased

P.A.Hatheem Khan are also heard before the first respondent passes any final orders in the application submitted by the third respondent seeking for issuance of legal heirship certificate for her deceased husband P.A.Hatheem Khan.

6. This Court, instead of granting the prayer sought for in this Writ Petition, namely, to forbear the respondents 1 and 2 from issuing legal heirship certificate to the third respondent, as the only legal heir of the deceased P.A.Hatheem Khan excluding the name of the petitioner and other brothers and sisters of the deceased, deems it fit in the interest of all the parties that the first respondent passes final orders in the third respondent application seeking for issuance of legal heirship certificate for the deceased P.A.Hatheem Khan, after hearing all the necessary parties including the petitioner and other brothers and sisters of the deceased P.A.Hatheem Khan as well as the third respondent, who is his wife.

7. For the foregoing reasons, this Court directs the first respondent to pass final orders on the third respondent application seeking for issuance of legal heirship certificate for the deceased P.A.Hatheem Khan on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order, after permitting the petitioner as well as his brothers and sisters to raise all objections available to them under Law in respect of the application submitted by the third respondent for issuance of legal heirship certificate for the deceased P.A.Hatheem Khan in her name alone and if found the petitioner and other brothers and sisters of the deceased are also eligible to be included, the first respondent shall pass final orders accordingly including their names also.

8. With the aforesaid direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

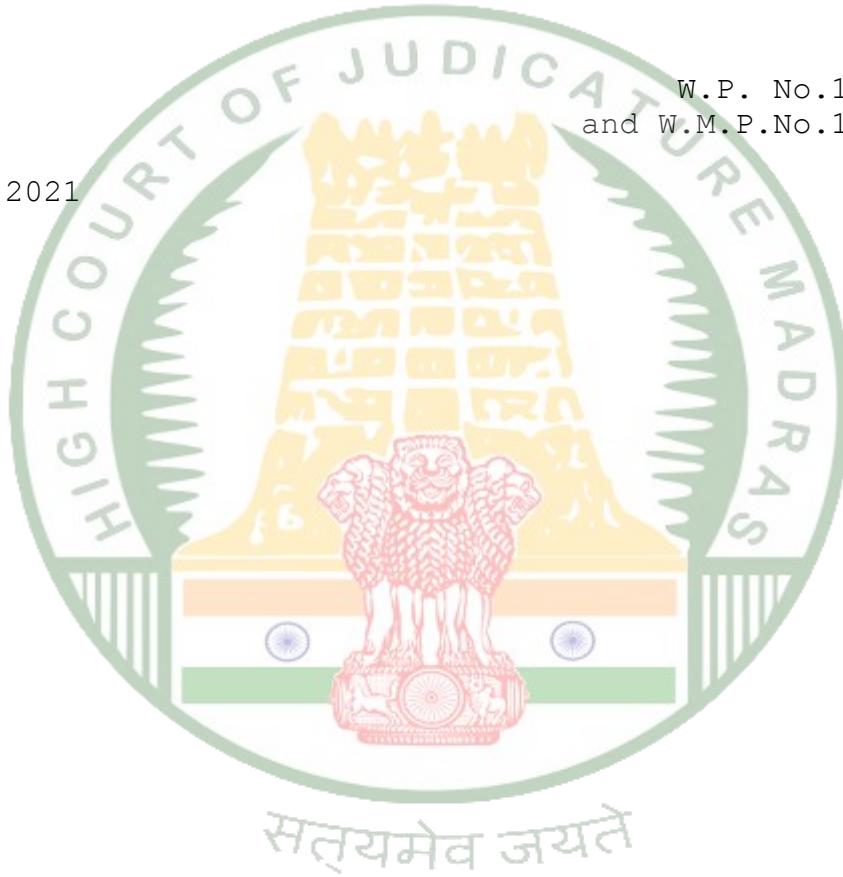
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To

1. The Tahsildar,
Gudiyattam Taluk,
Gudiyattam - 632 602,
Vellore District.
2. The Village Administrative Officer,
Gandhi Road, Gudiyattam Town - 632 602,
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AAB (CO)
CSR 12.03.2021

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