

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.03.2021
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1576 of 2020 &
W.M.P.No.1850 of 2020

1.Meenakshi Sundaresh
2.K.S.Narayanaswamy

... Petitioners

Vs

The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

.... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent in his proceedings Na.Ka.E1/6916/2018 dated 21.12.2018 and quash the same as illegal, incompetent and without jurisdiction and to further direct the respondent to issue a legal heirship certificate to the petitioner as the legal heirs of the deceased K.N.Venkatesh.

For petitioner ... Mr.V.Lakshmi Narayanan
For Respondent ... Mr.K.Parameshwaran,
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 21.12.2018 passed by the respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for the deceased K.N.Venkatesh who is the brother-in-law of the first petitioner and the uncle of the second petitioner on the ground that the petitioners are the class-II legal heirs and not entitled for legal heirs certificate.

2. It is the case of the petitioners by order dated 29.06.2016, the respondent rejected the application filed by the first petitioner's husband seeking for issuance of legal heirship certificate for his deceased brother K.N.Venkatesh on the ground that he is a class-II legal heir. Aggrieved by the same, the first petitioner's husband filed a writ petition in W.P.No.14887 of 2017 before this court wherein by order dated 17.09.2018, this Court quashed the order dated 29.06.2016 passed

by the respondent and remanded the matter back to the respondent for fresh consideration on merits and in accordance with law. In the case of the petitioners that K.N.Sundaresh who is the husband of the first petitioner and the father of the second petitioner died on 27.06.2017 and legal heirship certificate dated 07.08.2017 for the deceased K.N.Sundaresh has also been obtained. According to the petitioners, thereafter, the petitioners have applied for legal heirship certificate for the deceased K.N.Venkatesh. According to them, by impugned order dated 21.12.2018, the respondent has once again rejected the petitioners' application on the very same ground that since they are the class-II legal heirs, they are not entitled for legal heirship certificate for the deceased Venkatesh. Aggrieved by the impugned order dated 21.12.2018, they preferred this writ petition.

3. Heard Mr.V.Lakshmi Narayanan, learned counsel for the petitioner and Mr.K.Parameshwaran, learned Government Advocate for the respondent.

4. It is settled law that there is no prohibition for the respondent to issue legal heirship certificate for Class-II legal heirs also. In the case on hand, the deceased K.N.Venkatesh is the brother-in-law of the first petitioner and the uncle of the second petitioner. K.N.Sundaresh who is the brother of the deceased K.N.Venkatesh died on 27.06.2017 subsequent to the death of K.N.Venkatesh. Despite the settled position of law which empowers the respondent to issue legal heirs certificate for class-II legal heirs also, the respondent by total non application of mind to the settled position of law has once again rejected the petitioners' application seeking for issuance of legal heirship certificate for the deceased K.N.Venkatesh only on the ground that they are the class-II legal heirs. Hence, the impugned order dated 21.12.2018 passed by the respondent has to be necessarily quashed and the matter remanded back to the respondent for fresh consideration on merits and in accordance with law in the light of the observation made by this Court that there is no prohibition for the respondent to issue legal heirship certificate for class-II legal heirs also.

5. For the foregoing reasons, the impugned order dated 21.12.2018 is hereby quashed and the matter is remanded back to the respondent for fresh consideration on the petitioners' application seeking for issuance of legal heirship certificate for the deceased K.N.Venkatesh who died on 04.08.2016 and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioners and other necessary parties if any within a period of twelve weeks from the date of receipt of a copy of this Order.

6. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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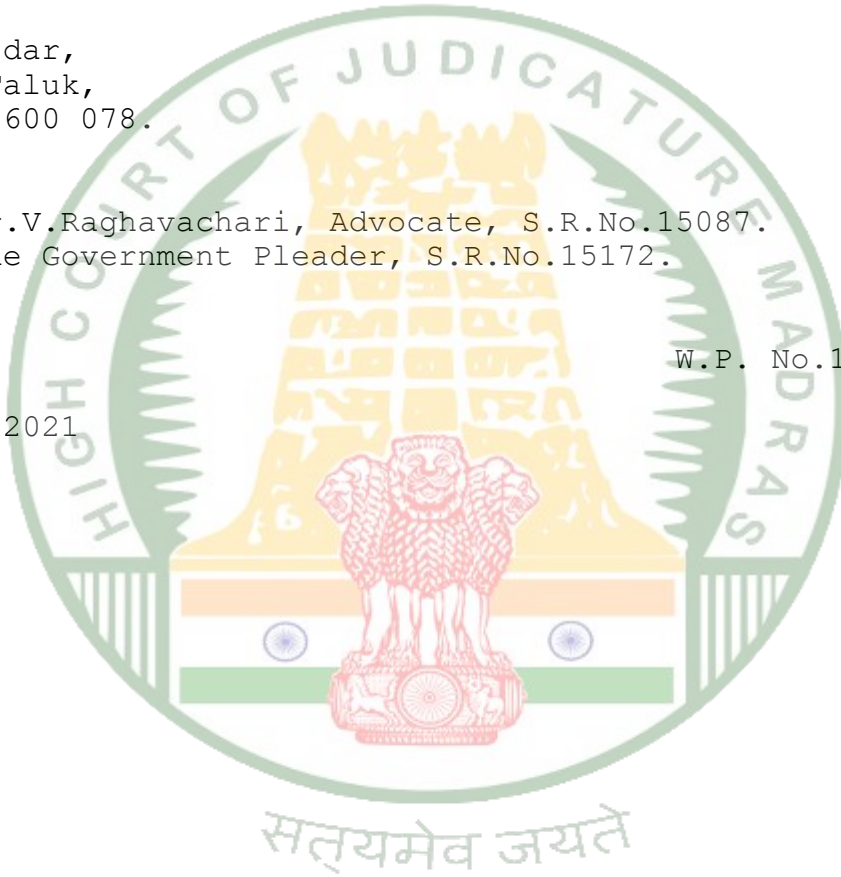
The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.15087.

+1cc to the Government Pleader, S.R.No.15172.

W.P. No.1576 of 2020

GPL (CO)
CSR 26.03.2021



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