

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.2981 of 2021 &
W.M.P.Nos.3339 & 3340 of 2021

1.Vathsala
2.Reghuraman ... Petitioners

Vs

1.The Salem District Collector,
Collectorate,
Salem - 636001.
2.The Tahsildar,
Salem West Taluk,
Salem District - 636302. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records relating to the second respondent relating to the impugned order in O.Mu.No.1334-2020-A1 dated 18.12.2020 quash the same as illegal, arbitrary and devoid of merit and consequently direct the second respondent herein to issue a legal heirship certificate of the deceased S.V.Sekar in favour of the petitioners.

For petitioners ... Mr.N.V.Prakash

For respondents ... Mr.K.Parameshwaran
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 18.12.2020 passed by the second respondent rejecting the petitioners' application seeking for issuance of legal heirship certificate for their brother S.V.Sekar who died on 08.12.2019.

2. Mr.K.Parameshwaran, learned Government Advocate accepts notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal at the time of admission itself.

3. According to the petitioners, they and the deceased S.V.Sekar are siblings and they are the only surviving class-II legal heirs of the deceased S.V.Sekar who died as a bachelor on 08.12.2019. According to the first petitioner, after the death of their parents, she has taken care of his brother S.V.Sekar, till his death. It is the case of the petitioners that they applied for legal heirship certificate with the respondents for the deceased S.V.Sekar who died on 08.12.2019. However, according to the petitioners, arbitrarily and by total non application of mind to the statutory provisions, the second respondent has rejected the petitioners' application on the ground that they are class-II legal heirs. In such circumstances, this writ petition has been filed.

4. Heard Mr.N.V.Prakash, learned counsel for the petitioners and Mr.K.Parameshwaran, learned Government Advocate for the respondents.

5. Admittedly, the impugned order has been passed only on the ground that the petitioners are Class-II legal heirs and are not entitled for legal heirship certificate for their deceased brother S.V.Sekar.

6. It is settled law that there is no bar for the second respondent to issue legal heirship certificate for Class-II legal heirs. Therefore, this Court is of the considered view that by total non application of mind to the settled provisions of law, the impugned order has been passed. Hence, the impugned order has to be necessarily quashed and the matter remanded back to the second respondent for fresh consideration on merits and in accordance with law within a time frame to be fixed by this Court.

7. In the result, the impugned order dated 18.12.2020 is hereby quashed and the matter remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on merits and in accordance with law after giving notice to all the necessary parties including the petitioners within a period of twelve weeks from the date of receipt of a copy of this Order.

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

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

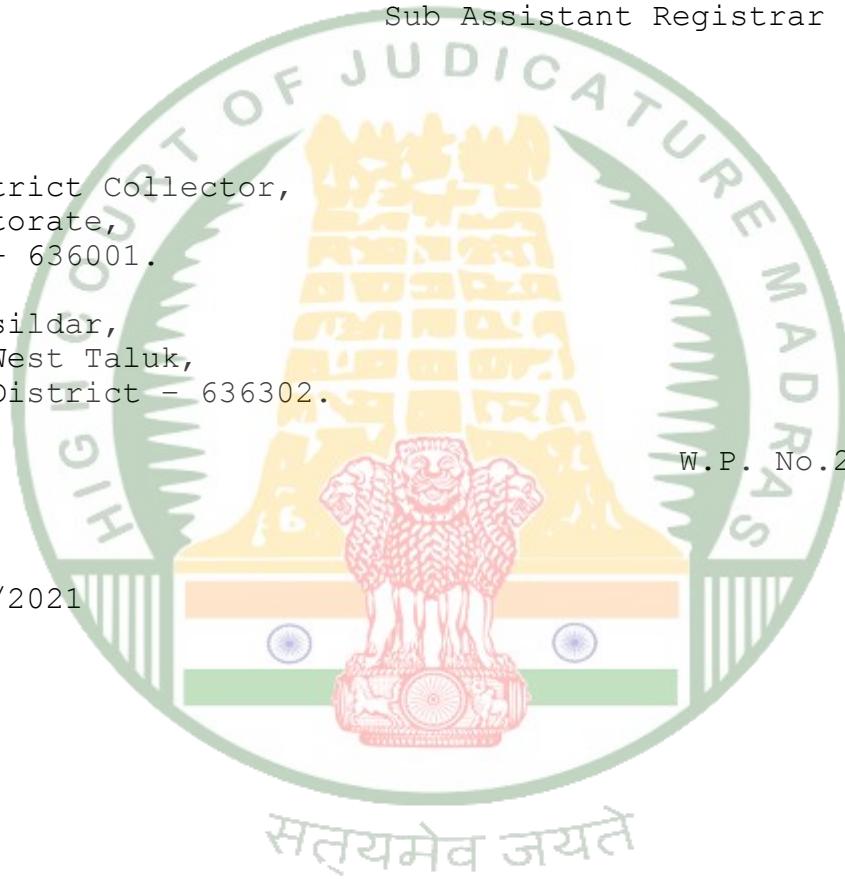
To

1.The District Collector,
Collectorate,
Salem - 636001.

2.The Tahsildar,
Salem West Taluk,
Salem District - 636302.

W.P. No.2981 of 2021

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