

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.3804 of 2021

Rajaram

... Petitioner

Vs

1. The District Revenue Officer,
Office of the District Collectrate,
Kallakurichi - Post & District.

2. The Tahsildar,
Tahsildar Office,
Chinnasalam - Post & Taluk,
Kallakurichi - District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records in the impugned proceedings in Na.Ka.No.A4/115/2021 on the file of the 2nd respondent dated 22.01.2021 and quash the same and consequently direct the second respondent to issue legal heir certificate as per the Hindu Succession within time stipulated by this Court to the petitioner.

For petitioner ... Mr.D.Veerasekaran

For respondents ... Mr.V.Prabhu
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 22.01.2021 rejecting the petitioner's application seeking for issuance of legal heirship certificate for his deceased brother Thangaraj who died on 25.09.2020 on the ground that the petitioner is the class-II legal heir.

2. Mr.V.Prabhu 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. Heard Mr.D.Veerasekaran, learned counsel for the petitioner and Mr.V.Prabhu learned Government Advocate for the respondents.

4. It is settled law that the second respondent is empowered to issue legal heirship certificate for class-II legal heirs also. Under the impugned order, the only ground for rejection of the petitioner's application for issuance of legal heirship certificate for his deceased brother Thangaraj is that the petitioner is a class-II legal heir and therefore, not entitled. According to the petitioner, his brother Thangaraj who died on 25.09.2020 as a bachelor leaving behind the petitioner and his two brothers and two sisters as his legal heirs. The petitioner has applied for legal heirship certificate for his deceased brother which has been rejected by the second respondent under the impugned order only on the ground that the petitioner is a class-II legal heir.

5. In view of the settled law, this Court is of the considered view that by total non application of mind to the settled law, the second respondent has rejected the petitioner's application. Hence, the impugned order dated 22.01.2021 passed by the second respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for his deceased brother Thangaraj who died on 25.09.2020 will have to be necessarily quashed and the matter remanded back to the second respondent for fresh consideration on merits and in accordance with law.

6. In the result, the impugned order dated 22.01.2021 is hereby quashed and the matter is 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 affording a fair hearing to the petitioner as well as the legal heirs of the deceased Thangaraj who died on 25.09.2020 within a period of twelve weeks from the date of receipt of a copy of this Order.

7. With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nl

To

1.The District Revenue Officer,
Office of the District Collectrate,
Kallakurichi - Post & District.

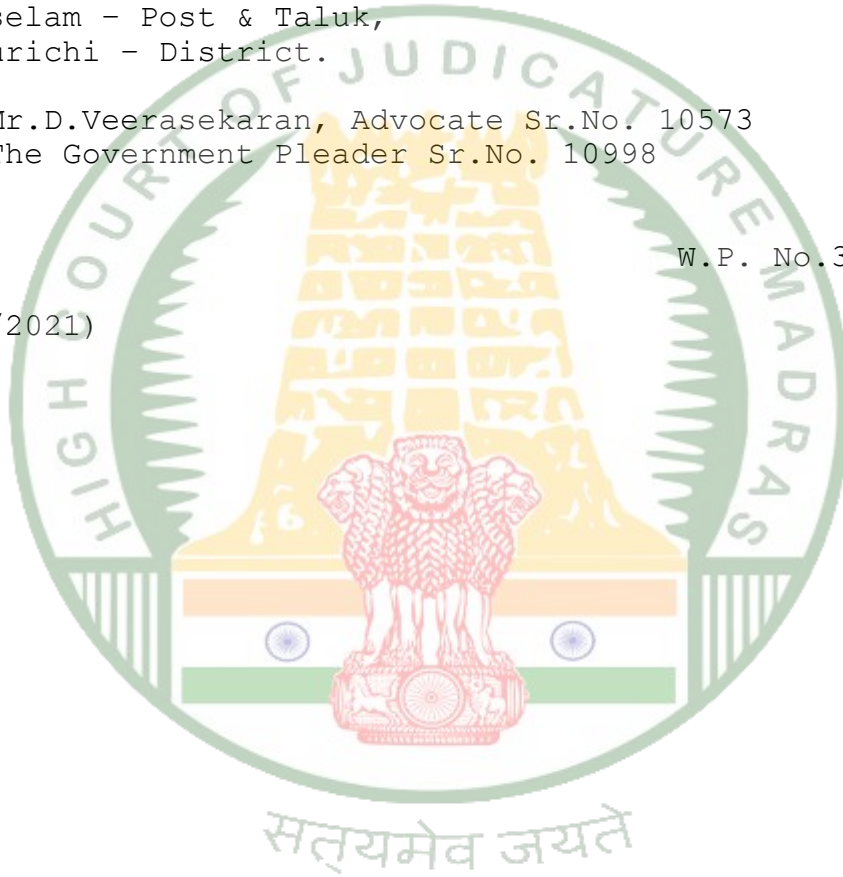
2.The Tahsildar,
Tahsildar Office,
Chinnasalam - Post & Taluk,
Kallakurichi - District.

+1 cc to Mr.D.Veerasekaran, Advocate Sr.No. 10573

+1 cc to The Government Pleader Sr.No. 10998

W.P. No.3804 of 2021

AJB(CO)
RMP(15/03/2021)



WEB COPY