



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.03.2021
CORAM

THE HONOURABLE Mr.JUSTICE ABDUL QUDDHOSE

W.P.No.7041 of 2021

C.Malliga

...

Petitioner

Vs

The Tahsildar,
Velacherry Circle,
Taramanai,
Chennai 600 113

...

Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for an issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings of the respondent in Na.Ka.AA2/4167/2017 dated 21.09.2017 and quash the same as illegal, incompetent, and ultravires and consequently direct the respondent to issue Class-II legal heirship certificate for the petitioner's deceased brother, namely, V.Shanmugam died on 03.04.2008.

For Petitioner : Mr.M.P.Saravanan

For Respondents : Mr.V.Shanmugasundar,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order dated 21.09.2017 passed by the respondent, rejecting the petitioner's application seeking for issuance of legal heirship certificate for her deceased brother V.Shanmugam, who died on 03.04.2008 on the only ground that the petitioner is not a direct legal heir.

2. Heard Mr.M.P.Saravanan, learned counsel for the petitioner and Mr.V.Shanmugasundar, learned Special Government Pleader accepts notice on behalf of the respondent. By consent of both the parties, this writ petition is taken up for final



disposal at the time of admission itself.

3. The case of the petitioner is that her brother V. Shanmugam died leaving behind the following legal heirs.

- a) Malliga - Sister
- b) Vedagiri - Brother
- c) R. Chandra - Sister
- d) N. Sagunthala - Sister
- e) V. Padmavathy - Sister (Died)
- f) V. Arumugam - Brother (Died)
- g) V. Elumalai - Nephew and S/o. above cited Late V. Padmavathy
- h) V. Kanniyappan - Nephew and S/o. above cited Late V. Padmavathy
- i) V. Rajeswari - Nephew and D/o. above cited Late V. Padmavathy and W/o. above cited Late V. Arumugam
- j) A. Jayanthi - Neice and D/o above cited Late V. Arumugam
- k) A. Karthik - Nephew and S/o above cited Late V. Arumugam

4. It is the case of the petitioner that her brother late V. Shanmugam died as a bachelor on 03.04.2008. The petitioner has applied for legal heirship certificate with the respondent. Under the impugned order, the respondent has rejected the petitioner's application only on the ground that she is a Class-II legal heir and not a direct legal heir of the deceased V. Shanmugam.

5. It is settled law that the respondent is empowered to issue legal heirship certificate for Class-II legal heirs also. But, by total non-application of mind to the settled law, the impugned order has been passed rejecting the petitioner's application. Hence, the impugned order dated 21.09.2017 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, after hearing all the necessary parties including the legal heirs of the deceased V. Shanmugam.

6. For the foregoing reasons, the impugned order dated 21.09.2017 passed by the respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for his deceased brother V. Shanmugam only on the ground that the petitioner is a Class-II legal heir is hereby quashed and the matter is remanded back to the respondent for fresh consideration and the respondent shall pass final orders on merits and in accordance with law, after hearing all the necessary parties including the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.



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

Sd/-
Assistant Registrar (CS VII)

/TRUE COPY/

Sub-Assistant Registrar

srn

To

The Tahsildar,
Velacherry Circle,
Taramanai,
Chennai 600 113

+2CC TO MR.M.P.SARAVANAN, ADVOCATE, SR.NO. 17486

W.P.No.7041 of 2021

PCH (CO)
KKN 19.04.2021