

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.7874 of 2021 &  
W.M.P.No.8405 of 2021

Solomon

... Petitioner

vs.

The Tahsildar,  
Chengalpattu Taluk,  
Chengalpattu District.

....Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records relating to the online order passed by the respondent dated -nil- rejecting the petitioner's online application in application No.TN-720200807990 seeking legal heir certificate in view of death of his father namely P.Thavamani on 30.10.1986, quash the same and consequently, direct the respondent herein to issue legal heir certificate as sought for by the petitioner vide his online application in application No.TN-720200807990.

For Petitioner : Mr.G.Magesh Kumar

For Respondents 1 & 2 : Mr.V.Shanmuga Sundar  
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated nil passed in application no.TN-720200807990 rejecting the petitioner's application seeking for issuance of legal heirship certificate for his father P.Thavamani who died on 30.10.1986 on the ground that the application submitted by the petitioner has been made belatedly.

2. Mr.V.Shanmuga Sundar, learned Special Government Pleader accepts notice on behalf of the respondent. By consent of both parties, this writ petition is taken up for final disposal at the time of admission itself.

3. The petitioner has filed the death certificate of his father Thavamani. As seen from the death certificate, the petitioner's father Thavamani died on 30.10.1986 and thereafter the petitioner's mother also died on 02.12.2014. The death certificate of the petitioner's mother Navamani has also been filed by the petitioner along with the typed set of papers. The legal heirship certificate of the petitioner's mother Navamani issued by Tahsildar, Chengalpattu on 08.12.2017 has also been filed by the petitioner along with the typed set of papers which discloses that the petitioner and his brother Samuvel and his two sisters, namely Victoria and Margaret Mary are the only legal heirs of the deceased Navamani. The only ground for rejection of the petitioner's application seeking for issuance of legal heirship certificate for his father Thavamani is that the petitioner has applied for the same belatedly as the deceased person died 35 years ago.

4. Heard Mr.G.Magesh Kumar, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondent.

5. Admittedly, as seen from the documents filed along with the typed set of papers, the petitioner is the son of the deceased Thavamani who died on 30.10.1986 and there is no legal prohibition for the respondent to reject the petitioner's application seeking for issuance of legal heirship certificate for his deceased father Thavamani on the ground that the same has been applied belatedly. There may be some internal circulars issued by the authorities concerned, but unless and until those circulars have been issued under a statute, the same is not binding on this Court. When it is established before this Court that the petitioner is the son of the deceased Thavamani, there is no legal prohibition for the respondent to issue legal heirship certificate, even though, the application for issuance of legal heirship certificate was applied belatedly.

6. The respondent after holding a proper enquiry can issue legal heirship certificate for any deceased person even if an application has been filed seeking for issuance of legal heirship certificate belatedly. Therefore, this Court is of the considered view that by total non application of mind to the settled position of law, the impugned order has been passed by the respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for his deceased father Thavamani only on the ground that the same has been applied after 35 years of the petitioner's father's death.

7. For the foregoing reasons, this Court is of the considered view that the impugned order dated Nil passed in application no.TN-720200807990 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 petitioner.

8. In the result, the impugned order dated Nil passed in application no.TN-720200807990 is hereby quashed and the matter is remanded back to the respondent for fresh consideration and the first respondent shall pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner as well as other legal heirs of the deceased and other necessary parties if any within a period of three months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Tahsildar,  
Chengalpattu Taluk,  
Chengalpattu District.

+1cc to Mr.G.Magesh Kumar, Advocate SR.No. 20349

W.P.No.7874 of 2021

RLD (CO)  
A.SK(08.07.2021)

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