

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.03.2021

Coram

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No. 12757 of 2020

P.Duraisamy

.. Petitioner

vs.

1.The District Collector,
Chennai District,
62, Rajaji Salai, Fourth Floor,
Chennai, Tamil Nadu - 600 001.

2.The Tahsildar,
Guindy Taluk,
Chennai - 600 032.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus calling for the records of the second respondent in letter No.Na.Ka.No.E1/2665/2018, dated 27.12.2018 and quash the same and consequently direct the second respondent to issue legal heir certificate of Rukmani to the petitioner as per the Hindu Succession Act within stipulated time.

For Petitioner : Ms.C.A.Sharmila

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 27.12.2018 passed by the second respondent rejecting the petitioner's application seeking for the issuance of a legal heirship certificate for his deceased sister Rukmani who died on 13.08.2001.

2.The case of the petitioner is that his sister Rukmani married Mr.Subburaya Nayakkar on 26.07.1978. Thereafter, Subburaya Nayakkar died within six months from the date of his sister's marriage leaving her all alone. According to the petitioner, no child was born out of the said wedlock. It is the

case of the petitioner that after the demise of Mr.Subburaya Nayakkar, his sister Rukmani has been living with him for more than 60 years till her death on 13.08.2001. The petitioner has applied for legal heirship certificate for his deceased sister Rukmani on 30.11.2018 with the second respondent. The same was rejected by the second respondent on 27.12.2018 in the impugned order. According to the petitioner, the death certificate of Mr.Subburaya Nayakkar, husband of Rukmani was also produced by the petitioner before the second respondent. It is the case of the petitioner that all the relevant documents required to establish that the petitioner is the only legal heir of the deceased Rukmani was produced by the petitioner before the second respondent. However, according to the petitioner, without conducting a proper enquiry, the second respondent has rejected the petitioner's application seeking for issuance of legal heirship certificate for his deceased sister Rukmani, who died on 13.08.2001.

3. Heard Ms.C.A.Sharmila, learned counsel appearing for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents.

4. The petitioner has filed before this Court the following documents:

Sl.No	Dates	Descriptions of Documents
1	19.03.1991	Death Certificate of Pachiyappan Nayakar B&D No 4372/1991
2	14.02.1992	Certificate issued by Special Thasildar, Guindy
3	10.08.1998	Election ID Card
4	03.09.2001	Death Certificate of S.Rukmani
5	17.04.2018	Legal heir ship Certificate of late.Pachiyappan Nayakar
6	15.08.2018	Authorization Letter along with typed copy
7	27.12.2018	Impugned order issued by the second respondent
8	03.03.2020	Death Certificate of Mr.Subburayanayakkar

5. As seen from the impugned order, none of the documents referred to supra had been considered by the second respondent while rejecting the petitioner's request for issuance of legal heirship certificate for his deceased sister Rukmani. There is also no statutory prohibition for the second respondent to issue legal heirship certificate for Class 2 legal heirs also.

6. For the foregoing reasons, this Court is of the considered view that the second respondent has not applied his mind to the aforementioned documents and has also not conducted a proper enquiry. Hence the impugned order dated 27.12.2018 passed by the second respondent has to be necessarily quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law.

7. In the result, the impugned order dated 27.12.2008 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner, including permitting him to place all documentary evidence in support of his case that he is the only surviving legal heir of the deceased Rukmani, who died on 13.08.2001 and pass final orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The District Collector,
Chennai District,
62, Rajaji Salai, Fourth Floor,
Chennai, Tamil Nadu - 600 001.

2. The Tahsildar,
Guindy Taluk,
Chennai - 600 032.

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+1cc to Mr.C.A.Sharmila, Advocate, S.R.No.20266

W.P.No. 12757 of 2020

GP 2 (CO)
CB(17/04/2021)



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