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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 20296 of 2021

Mrs. Sampooranam

.. Petitioner

Versus

The Tahsildar
Velachery Taluk,
Seva Nagar 1st Street, Soni Nagar,
Periyar Nagar Extension, Seva Nagar,
Velachery, Chennai - 600 042.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to consider the petitioner's representation dated 14.12.2020 to issue Class II Legal Heir Certificate for the deceased Mr. P. Santhalingam in favour of the petitioner and others within a period fixed by this Court.

For Petitioner	:	Mr. E. Balamurugan
For Respondent	:	Mr. G. Krishnaraja Government Counsel

ORDER

Mr. G. Krishnaraja, learned Government Counsel takes notice for the respondent. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself.



2. According to the petitioner, her parents Late. Perumal and Anbuammal were blessed with six children and they are (i) Gnanasundari (ii) Juliet Santhana Mary (iii) Pushparani (iv) Sampooram (petitioner) (v) Chandran and (vi) Santhalingam. According to the petitioners, her father died on 23.01.1957. On 11.05.2015, her mother Anbuammal died. On 20.08.2015, her sister Gnanasundari died leaving behind her husband and two sons. Her brother Chandran also died on 24.02.2014 leaving behind his wife and four children. Her Brother Santhalingam died as a bachelor. On his death, the petitioner, her Sisters Juliet Santhana Mary, Pushparani and her brother's children are the class II legal heir to succeed to his estate. The petitioner therefore submitted an application on 14.12.2020 to the respondent to issue legal heir certificate for the deceased Santhalingam by enclosing all the relevant documents. The respondent did not incline to issue second class legal heir certificate. Feeling aggrieved, the petitioner again made a representation dated 25.08.2021 to the respondent seeking to issue legal heir certificate, which was not considered till date. Hence, this writ petition.

3. The learned counsel for the petitioner placed reliance on the order dated 06.03.2020 passed in WP No. 5883 of 2020 (*P. Riza Ahmed vs. The Tahsildar, Walajah Taluk, Walajah, Ranipet District*) and submitted that in



the aforesaid decision, this Court, after analysing the various decisions in the field, has concluded that a Tahsildar is empowered to issue even Class II legal heir certificate provided he is satisfied with the genuineness of the claim made by the applicant after conducting an enquiry. Only in cases where the Tahsildar is not satisfied with the genuineness of the claim, he can direct the applicant to approach the competent Civil Court. For better appreciation, the relevant paragraphs of the said order are reproduced hereunder:

"5. Admittedly, the petitioner is not the Class I legal heir of the deceased Raziya Begum, being the brother, he is only the Class II legal heir. However, as claimed by the petitioner, the deceased is a married person and she has no other legal heirs except her brother. Since in the absence of any other Class I legal heir, there is no impediment for the respondent/Tahsildar to consider the said request as per the guidelines issued by the Government, which reads as follows:

1. As per the present procedure the Tahsildar has to issue the legal heirship certificate to the direct heir.

2. The Tahsildars should avoid issuing legal heirship certificate in respect of the following items mentioned below, apart from the direct heirs and the applicants should be instructed to get the certificate through the Civil Court.

a. If there are more than one wife/husband for the deceased, and even if they have children and if it is evident that there is a partition dispute among them.

b. When there is a condition to issue heir certificate for the person, who has left the family for seven years by deeming that person to be dead.

c. If a person is residing in other District, and does not have the residence within the limits of the Taluk and if he is not in possession of a house or property, and does not attend the enquiry to give his statement to the Tahsildar.

d. If the deceased does not have children and brings up other children.



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6. Even as per the above guidelines, the respondent/Tahsildar should avoid issuing legal heir certificate falling under the above four categories only. Since the petitioner does not fall under anyone of the above categories, the impugned order is set aside and the matter is remitted back to the respondent/Tahsildar to reconsider the claim of the petitioner in the light of the observation stated supra and pass appropriate orders on merits and in accordance with law, after conducting enquiry and verifying the fact whether any other legal heirs are available for the deceased, within a period of 8 weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of. No costs."

4. By citing the above said order, the learned counsel prayed for issuing appropriate direction to the respondent to issue legal heir certificate to the petitioner.

5. On the other hand, the learned Government counsel taking notice for the respondent fairly submitted that the respondent would consider the representation of the petitioner, on merits and also in the light of the order passed by this Court.

6. Considering the facts and circumstances of the case and having regard the submissions made by the learned counsel on either side and also following the aforesaid order passed by this court, the respondent is directed to



consider the representation of the petitioner dated 14.12.2020 of the petitioner, conduct an enquiry, afford an opportunity of hearing to her and others concerned, consider the documentary evidence that may be submitted by them and thereafter pass an order, on merits and in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

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

22.09.2021

Index : Yes/No

Internet : Yes/No

av/rsh

To

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R. MAHADEVAN, J

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