

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.01.2021
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.18100 of 2020

Lakshmi

...Petitioner

Vs

1. The District Collector,
Collectorate, Namakkal District.
2. The Tahsildhar,
Namakkal Taluk, Namakkal District.
3. The Zonal Deputy Tahsildhar,
Head Quarters Deputy Tahsildhar,
Namakkal Taluk, Namakkal District,
- 4.The Revenue Inspector,
Namakkal Taluk, Namakkal District.
- 5.The Village Administrative Officer,
N.Pudhupatti Village,
Namakkal 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 pertaining to the E-Order passed by the second respondent dated 03.11.2020 and quash the same as illegal and consequentially direct the respondents 2 to 4 to process the petitioner application No.TN 7202009161768 and issue the legal heirship certificate to the legal heirs of deceased Subramaniyan. सत्यमेव जयते

For petitioner

... Mr.M.Guruprasad

For respondents

... Mr.V.Shanmugasundar
Spl.Govt.Pleader

ORDER

This writ petition has been filed challenging the order dated 03.11.2020 passed by the second respondent rejecting the petitioner's application seeking for issuance of legal heirship certificate for her deceased husband Subramaniyan, who died on

09.06.2020 on the ground that the Village Administrative Officer as well as the Revenue Inspector have not recommended for issuance of legal heirship certificate and that the petitioner is a defaulter under the Revenue Recovery Act.

2. It is the case of the petitioner that she is the legally wedded wife of Subramaniyan, who died on 09.06.2020 as a result of a motor accident. According to the petitioner, she is having two sons. The petitioner applied for legal heirship certificate on 16.09.2020 for her deceased husband Subramaniyan. However, under the impugned order passed by the second respondent, the petitioner's application has been rejected on the ground that the Village Administrative Officer and the Revenue Inspector have not recommended the case of the petitioner for issuance of legal heirship certificate and that the petitioner is a defaulter under the Revenue Recovery Act. According to the petitioner, without giving proper opportunity to the petitioner to raise all contentions and by giving reasons, which are not in accordance with law, the second respondent has rejected the petitioner's application for issuance of legal heirship certificate for her deceased husband Subramaniyan. In such circumstances, this Writ Petition has been filed.

3. Heard Mr.M.Guruprasad, learned counsel for the petitioner and Mr.V.Shanmugasundar, learned Special Government Pleader for the respondents.

4. As seen from the impugned order, it is clear that no notice was given to the petitioner in the enquiry proceedings and the rejection order was communicated only through on-line to the petitioner, The only reason given by the second respondent for rejection of the petitioner's application is that the Village Administrative Officer and the Revenue Inspector have not recommended the case of the petitioner and that the petitioner is a defaulter under the Revenue Recovery Act.

5. The petitioner has sought only for issuance of legal heirship certificate for her deceased husband Subramaniyan. The reason given by the second respondent under the impugned order for rejection of the petitioner's application is not legally correct, as that cannot be a ground for rejecting the petitioner's legal right to obtain the legal heirship certificate. Further, before rejecting the application, the second respondent has not afforded sufficient opportunity to the petitioner to raise all contentions available to her under Law.

6. Therefore, this Court is of the considered view that the impugned order has been passed arbitrarily and by total non-application of mind. Hence, the impugned order has to be necessarily quashed and the matter remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording sufficient opportunity to the petitioner.

7. For the foregoing reasons, the impugned order dated 03.11.2020 passed by the second respondent rejecting the petitioner's application for issuance of legal heirship certificate for her deceased husband Subramaniyan, who died on 09.06.2020 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 on the petitioner's application seeking for issuance of Legal Heirship Certificate for her deceased husband Subramaniyan, after affording fair hearing to all the necessary parties including the petitioner and other legal heirs of the deceased Subramaniyan, within a period of twelve weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srn

To

1. The District Collector,
Collectorate, Namakkal District.
2. The Tahsildhar,
Namakkal Taluk,
Namakkal District.
3. The Zonal Deputy Tahsildhar,
Head Quarters Deputy Tahsildhar,
Namakkal Taluk, Namakkal District,
4. The Revenue Inspector,
Namakkal Taluk,
Namakkal District.

5.The Village Administrative Officer,
N.Pudhupatti Village,
Namakkal District.

+1cc to Mr.M.GuruPrasad, Advocate, S.R.No.4121.

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SMI (CO)
NRA (17/02/2021)



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