



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 21807 of 2021

P. Pannirdass

.. Petitioner

Versus

The Tahsildar
Tambaram Taluk
Tambaram
Chennai

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider the petitioners' representation regarding the issue of Class-II Legal Heirship Certificate in the light of the order passed in J. Babu Vs. The Tahsildar on 27th July 2020.

For Petitioner : Mr.M. Selvam

For Respondent : Mr.Stalin Abhimanyu
Government Counsel

O R D E R

According to the petitioner, his parents viz., Ahilambal and Ponnusamy died on 17.02.2006 and 06.12.2010 respectively. The petitioner has seven siblings viz., (i)Viswanathan (ii) Rajalingam (iii)Navaneetham (iv)Ananthakrishnan (v)Ranganathan (vi)Nagalakshmi and (vii)Saraswathi. His elder brother Viswanathan died on 10.09.1985 as a bachelor; another brother Ananthakrishnan, after obtaining divorce from his wife Prema, died on 10.12.2016; elder sister Navaneetham died on 14.03.2020 and her husband mohanraj predeceased her. Subsequently, the petitioner made an application on 02.02.2021 enclosing all the required documents seeking issuance of legal heir certificate of his deceased sister Navaneetham to the effect that he and the remaining siblings viz., Rajalingam, Ranganathan, Nagalakshmi and Saraswathi are the second class legal heir of the deceased. However, till date, no action was taken on the same. Therefore, he has come up with this writ petition for a mandamus seeking appropriate direction to the respondent in this regard.



2. The learned counsel for the petitioner submitted that though the petitioner furnished all the necessary documents along with his application seeking issuance of class II legal heir certificate of his deceased sister, the respondent did not take steps on the same. The learned counsel further 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.



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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.

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."

Hence, the learned counsel prayed for appropriate direction to the respondent in this writ petition.

3. 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 as referred to on the side of the petitioner, within a time frame to be fixed by this court.

4. Considering the facts and circumstances of the case and having regard the submissions made by the learned counsel on either side, this court directs the respondent to consider the representation of the petitioner dated 02.02.2021 and conduct an enquiry, afford an opportunity of hearing to the petitioner as well as any other interested parties, consider the documentary evidence that may be submitted by him and thereafter pass an order, on merits and in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.



5. Accordingly, the writ petition stands disposed of. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dhk

To

The Tahsildar,
Tambaram Taluk,
Tambaram,
Chennai.

+1cc to Mr.M.Selvam, Advocate Sr No.53967

WP No. 21807 of 2021

VBM (CO)
PR (22/10/2021)