

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.19325 of 2020
and W.M.P.No.23923 of 2020

1.M.V.Udhayashankar
2.R.Dinesh

...Petitioners

Vs.

The Tahsildar,
Mylapore Taluk,
Greenways Road,
Chennai - 600 028.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed in Na.Ka A4/3192/2020 dated 04.12.2020 by the Tahsildar Mylapore Taluk and quash the same and direct the respondent to issue a legal heirship certificate to the petitioners.

For Petitioners : Mr.V.K.Sathiamurthy
For Respondent : Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 04.12.2020 passed by the respondent rejecting the petitioner's application on the ground that the Legal Heirship certificate can be issued only to the direct Legal Heirs.

2.Heard Mr.V.K.Sathiamurthy, learned counsel for the petitioners and Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondent.

3.The petitioners claim that Ms.M.C.Jamuna died on 04.06.2020 as a spinster. According to the petitioners, she died leaving behind the petitioners as well as M.V.Nandini Valsan as the legal heirs. According to the petitioners, arbitrarily and by total non-application of mind and without any prior notice to the petitioners, the impugned order has been

passed by the respondent. In such circumstances, this writ petition has been filed.

4.It is now settled law that Legal Heirship certificate can be issued by the respondent even for Class II Legal Heirs also. The petitioners claim that they along with M.V.Nandini Valsan are the only surviving Legal Heirs for the deceased M.C.Jamuna who died as a spinster on 04.06.2020.

5.Admittedly, as seen from the impugned order, excepting for stating that the petitioners being Class II Legal Heirs are not entitled for Legal Heirship certificate, no other reason has been given. The contention of the petitioners that they and M.V.Nandini Valsan are the only surviving Legal Heirs of the deceased M.C.Jamuna for whom Legal Heirship certificate was sought for has not been considered by the respondent under the impugned order. Therefore, this Court is of the considered view that the respondent has violated the principles of natural justice by not affording an opportunity of hearing to the petitioners before passing the impugned order. The impugned order is also a non-speaking order and none of the contentions raised by the petitioners in the affidavit filed in support of the writ petition has been considered. Therefore, this Court is of the considered view that on account of violation of principles of natural justice, the impugned order passed by the respondent has to be necessarily quashed and the matter remanded back to the respondent for fresh consideration on merits and in accordance with law.

6.Accordingly, the impugned order dated 04.12.2020 is 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 petitioners as well as M.V.Nandini Valsan and pass final orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

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

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pam

To

The Tahsildar,
Mylapore Taluk,
Greenways Road,
Chennai - 600 028.

+3 Ccs to Mr.C. Rajan, Advocate sr 7244.

W.P.No.19325 of 2020

SMI (CO)
SP(02/03/2021)



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