



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. NO. 23633 OF 2021

Mohamed Niyaz

.. Petitioner

Versus

The Tahsildar
Egmore-Nungambakkam Taluk
Spur Tank Road, M.S.Nagar
Mukta Gardens, Egmore,
Chennai 600 031

.. Respondent

Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing respondent to consider and dispose of the petitioner's application bearing No.TN-7202108241666 for issuance of the Legal Heirship Certificate for the petitioner's deceased father, within a time frame as fixed by this Court.

For Petitioner : Mr. W.M. Abdul Azeez

For Respondents : Mr. G. Krishnaraja
Government Counsel

ORDER

The petitioner has filed this writ petition praying to issue a Writ of Mandamus directing the respondent to consider and dispose of his application bearing No.TN-7202108241666 for issuance of the Legal Heirship Certificate for his deceased father, within a time frame that may be fixed by this Court.

2. According to the petitioner, he and his brother Sathak Nawaz were born out of the wedlock between his parents viz., Thaika Lebbai and Umul Baheeja. It is stated that his father, thereafter contracted another marriage with one Jannath Mahmooda and out of such wedlock, two children were born and they are (i)



Thaika Mohamed Hussain and (ii) Ms. Thaika Aysha Fathimuthu Zahra. The petitioner would further state that his mother Umul Baheeja died on 14.10.2011 and his father Thaika Lebbai died on 24.01.2021. Subsequently, his brother Sathak Nawaz also died on 20.05.2021 due to Covid-19 infection leaving behind his wife and children as his legal heirs. In such circumstances, the petitioner submitted an application on 24.08.2021 to issue legal heir certificate for the death of his father. However, the application has not been considered and therefore the present writ petition is filed.

3. The learned counsel for the petitioner submitted that there is no bar for contracting two wives under Muslim Personal Law. In fact, the petitioner along with the second wife of his father Mrs. Jannath Mahmooda met the respondent and informed that a legal heir certificate can be issued by excluding the name of the second wife. However, so far, the respondent did not issue legal heir certificate, hence, the learned counsel for the petitioner prayed this Court to issue appropriate direction to the respondent to consider the application of the petitioner seeking legal heir certificate.

4. Heard the counsel for both sides and perused the materials available on record.

5. Considering the above facts and circumstances of the case and having regard to the submission made, the respondent is directed to consider the application bearing No.TN-7202108241666 submitted by the petitioner for issuance of Legalheirship Certificate and pass orders on the same on merits and in accordance with law, after affording opportunity of hearing to him and all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr/rsh



To

The Tahsildar
Egmore-Nungambakkam Taluk
Spur Tank Road, M.S.Nagar
Mukta Gardens, Egmore, Chennai 600 031

+1cc to Mr. W.M. Abdul Azeez, Advocate, S.R.No.56822
+1cc to the Government Pleader, S.R.No.57169

WP No. 23633 of 2021

VGII (CO)
PM/26/11/2021