



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.04.2021**

CORAM

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD)No.7934 of 2021

1.P.Gothandaraman

2.P.Shanmugathai

.. Petitioners

Vs.

The Tahsildar,
Kayathar Taluk,
Tuticorin District.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in O.Mu.A2/1245/2021 dated 16.03.2021 and quash the same and consequently direct the respondent to issue the legal heir certificate for the petitioner's deceased brother namely Manimaran within the time fixed by this Court.

For Petitioners : Mr.H.Arumugam

For Respondent : Mr.M.Rajarajan,
Additional Government Pleader.

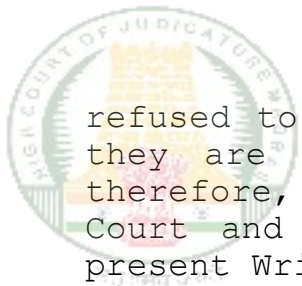
ORDER

On consent given by either side, the main Writ Petition itself is taken up for final hearing.

2. The subject matter of challenge in the present Writ Petition is the impugned communication of the respondent, wherein the respondent has refused to issue a legal heirship certificate by adding the petitioners, who are claiming to be the Class-II legal heirs of the deceased brother viz., Manimaran.

3. The case of the petitioner is that their father late Pandian, died on 25.02.1987, leaving behind his wife and three children. One of the brother of the petitioners Manimaran was also provided with a compassionate appointment and he died in harness on 20.02.2021. It is stated that he is unmarried. The mother of the petitioners died on 09.10.2018.

4. After the demise of Manimaran, the petitioners applied for a legal heir certificate before the respondent on the ground that they are the class-II legal heirs of Manimaran. The respondent has



refused to issue the legal heirship certificate on the ground that they are not direct legal heirs of the deceased Manimaran and therefore, the petitioner will have to approach the competent civil Court and redress their grievances. Aggrieved by the same, the present Writ Petition has been filed before this Court.

WEB COPY

5. Heard Mr.H.Arumugam, learned counsel for the petitioners and Mr.M.Rajarajan, learned Additional Government Pleader appearing for the respondent.

6. The issue involved in the present case is squarely covered by the earlier orders passed by this Court. One such order was passed in W.P.No.5883 of 2020, dated 06.03.2020. The relevant portion in the order is extracted 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 a position 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

https://hcservices.ecourt.gov.in/hcservices/ 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."

7. It is clear from the above order that there is a bar for issuing legal heirship certificate, only if a case falls within any of the four clauses provided in the guidelines. In the present case, none of the clauses will apply and the petitioners, who are the Class-II legal heirs of the deceased Manimaran are entitled to get a legal heirship certificate from the respondent.

8. In view of the above, the impugned refusal letter issued by the respondent is hereby quashed and there shall be a direction to the respondent to issue a legal heirship certificate to the petitioners by incorporating their names within a period of four (4) weeks from the date of receipt of a copy of this order.

9. This Writ Petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

In view of the present lock down owing to COVID-19
Note : pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To
The Tahsildar,
Kayathar Taluk,
Tuticorin District.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-16581[F] dated 20/04/2021)
+1 CC to M/s.SPL GP (SR-16508[F] dated 19/04/2021)

W.P. (MD)No.7934 of 2021
17.04.2021

RK (28.04.2021) 3P 4C