



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD)No.9130 of 2021

S.Bose

... Petitioner

Vs.

The Tahsildar,
Thirupparankundarm Taluk,
Madurai - 625 005.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent in O.Mu.No.0521/2021/A dated 27.02.2021, quash the same as illegal, and consequently direct the respondent to issue legal heirs certificate for the deceased Mrs.(Late) Rajammal infavour of the petitioner and his siblings as the second class legal heirs.

For Petitioner : Mr.A.K.Thangavelu
For Respondent : Mr.K.S.Selvaganesan,
Counsel for State.

ORDER

The petitioner challenges an order dated 27.02.2021 by which the respondent rejected the application for legal heirs certificate in respect of the late Mrs.Rajammal.

2.The petitioner states that Mrs.Rajammal was her sister. She died on 02.11.2004. Her husband, Mr.Murugesan, predeceased her on 13.10.1960. Since she did not have children, the only legal heirs were the petitioner, his siblings and their father, Mr.Subbaiah Ambalam. On account of the death of their father Mr.Subbaiah Ambalam on 07.07.2008, it is stated that only four legal heirs survived him. The said four legal heirs are the two brothers and two sisters of the deceased, Mrs.Rajammal.

3.In such circumstances, the petitioner submitted a representation dated 01.02.2021 to the respondent requesting for the grant of legal heirs certificate in terms of Section 15(d) of the Hindu Succession Act, 1956. Such representation was rejected by the impugned communication.

4.The petitioner challenges the impugned communication on the ground that only one reason was cited therein, namely, that the petitioner is not a direct legal heir of the deceased. The



petitioner relies upon earlier orders of this Court in W.P.(MD) No.4316 of 2019, dated 24.04.2019, and W.P.(MD)No.25089 of 2019, dated 26.11.2019.

5.Mr.K.S.Selvaganesan, learned Counsel for the State, appears on behalf of the respondent. He submits that the respondent may be directed to reconsider the matter based on the earlier orders of this Court.

6.The Tahsildar is empowered to grant a legal heirship certificate not only to heirs indicated in clause (a) of Section 15 (1) of the Hindu Succession Act, 1956, as regards a Hindu female who dies intestate, but also the heirs indicated in the other clauses of Section 15(1) of the said enactment.

7.In the case at hand, Section 15 of the Hindu Succession Act, 1956 would be applicable. The judgments cited by learned counsel for the petitioner and the judgments referred to therein instruct that the Tahsildar should conduct an inquiry in case the applicant for a legal heirship certificate is not a class I or direct heir, as the case may be. Upon such inquiry, if the Tahsildar finds that there are rival claimants and that it is difficult to identify the legal heirs, the matter should be referred to the jurisdictional civil court.

8.For the reasons set out above, the impugned order cannot be sustained. Consequently, the impugned order dated 27.02.2021 is quashed. As a corollary, the matter is remitted to the respondent. The respondent is directed to reconsider the petitioner's representation for grant of legal heirs certificate. The respondent shall provide a reasonable opportunity to the petitioner and the other legal heirs of the late Mrs.Rajammal and pass a reasoned order by taking into account the observations herein and in the judgments cited by learned counsel for the petitioner. Such reasoned order shall be issued within a period of two months from the date of receipt of a copy of this order.

9.W.P.(MD)No.9130 of 2021 is disposed of on these terms without any order as to costs.

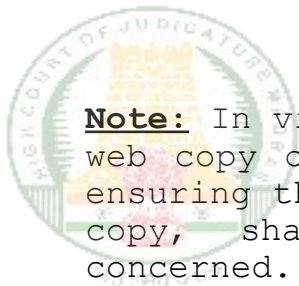
Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 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.

WEB COPY

To:

The Tahsildar,
Thirupparankundarm Taluk,
Madurai - 625 005.

+1 CC to M/s.A.K.THANGAVELU, Advocate (SR-27869[F] dated 02/09/2021)

+1 CC to M/s.The Special Government Pleader (SR-28068[F] dated 03/09/2021)

W.P (MD) No. 9130 of 2021
01.09.2021

RS (08.09.2021) 3P 4C