



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.16103 of 2021

and

W.M.P(MD) .No.12959 of 2021

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K.Michealammal

... Petitioner

Vs.

The Tahsildar, Tahsildar Office,
Kalayarkovil - 630 551,
Sivagangai District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the respondent Tahsildar in Transaction Reference No.TNVLESVG02902664, quash the same and further direct the respondent herein to issue forthwith the Legal Heir Certificate for the deceased A.Lourthu, as per the Indian Succession Act, 1925.

For Petitioner : Ms.Amala
For Respondent : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner challenges an order issued by the Tahsildar, whereby the petitioner's request for a Legal Heirship Certificate was rejected.

2.The petitioner states that she is the seventh child of her parents namely Thiru. Anandhraj and Tmt. Santhyagammal. The petitioner states that they are Christians. Her father and mother died on 11.06.1987 and 17.10.2019, respectively. She has three brothers and three sisters. Among her three brothers, the eldest brother, namely, Mr.A.Lourthu, died on 26.10.1988 as a bachelor. The relevant Death Certificate is cited in support.

3.According to the petitioner, her deceased brother had acquired some properties in his name and died intestate. Therefore, Section 47 of the Indian Succession Act, 1925 becomes applicable. In terms thereof, the petitioner states that the brothers and sisters of a deceased intestate who does not have lineal descendants or a father or mother would take equal shares in his estate.

4.By taking into account the aforesaid legal position, the petitioner applied for a Legal Heirship Certificate. Such



application was rejected by the impugned order.

5.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the sole respondent.

6.On perusal of the impugned order, such order is terse and merely states that "Applicant is not the legal heir of the deceased person". An order of this nature does not qualify as a reasoned order. It is unclear as to why the Tahsildar concerned has concluded that the applicant is not the legal heir of the deceased person. Even without going into any other aspect, the impugned order is unsustainable because it is unreasoned.

7.In addition, as correctly contended by learned counsel for the petitioner, Section 47 of the Indian Succession Act, 1925 prescribes that the property of an intestate who does not leave behind a lineal descendant or a father or mother would be divided equally between his brothers and sisters. Therefore, upon receiving the application of the petitioner, an inquiry should have been conducted as to whether the petitioner's deceased brother died intestate. In addition, the Tahsildar should have inquired as to whether he had any lineal descendants or a father or mother. Instead of adopting such approach, the impugned unreasoned order has been issued.

8.For reasons set out above, the impugned order is unsustainable. Consequently, such order is quashed. As a corollary, the matter is remitted to the Tahsildar for re-consideration. The Tahsildar shall re-consider the petitioner's application by taking into account the observations herein and conclude such exercise by either issuing the Legal Heirship Certificate as requested or by issuing a reasoned order in case of rejection. The entire exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and the other legal heirs of the late Mr.A.Lourthu.

9.Accordingly, W.P(MD).No.16103 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD).No.12959 of 2021 is closed.

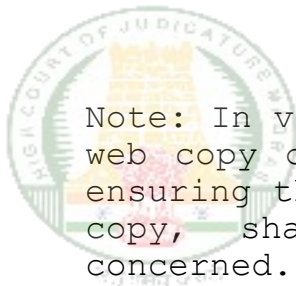
Sd/-

Assistant Registrar (CRL)

// 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.

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To
The Tahsildar,
Tahsildar Office,
Kalayarkovil - 630 551,
Sivagangai District.

+1 CC to M/s.A.AMALA, Advocate (SR-28902[F] dated 13/09/2021)

+1 CC to M/s.GP (SR-28810[F] dated 13/09/2021)

W.P (MD) No.16103 of 2021
09.09.2021

RS (20.09.2021) 3P 4C