



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.16372 of 2021

and

W.M.P(MD) .No.13227 of 2021

D.Veerapathiran

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

... Respondents

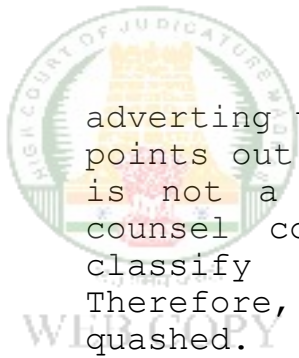
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent proceedings in ~~W.P(MD)~~ 16/5367/2020 dated 09.09.2020 and quash the same and consequently direct the second respondent to issue the Legal Heir Certificate of the deceased Aathimoolam Pillai to the petitioner and other legal heirs.

For Petitioner : Mr.R.Devaraj
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for State.

ORDER

The petitioner challenges an order dated 09.09.2020 of the second respondent by which the request of the petitioner for the issuance of a Legal Heirship Certificate in respect of his late uncle, Aathimoolam Pillai, was rejected.

2. The petitioner states that his grandfather, Muthusamy Pillai, had three sons, namely, Aathimoolam Pillai, Devanathan Pillai (father of the petitioner) and Ramasamy Pillai. According to the petitioner, his uncle, Aathimoolam Pillai, died on 02.07.1993. Although he was married to one Guruvammal, the couple did not have any children. In these circumstances, the petitioner approached the second respondent for issuance of a Legal Heirship Certificate of his uncle Aathimoolam Pillai. In response thereto, the impugned order dated 09.09.2020 was issued by the second respondent. By



adverting to such impugned order, learned counsel for the petitioner points out that the only reason cited therein is that the petitioner is not a direct heir of the said Aathimoolam Pillai. Learned counsel contends that the Hindu Succession Act, 1956 does not classify legal heirs into direct heirs and indirect heirs. Therefore, he contends that the impugned order is liable to be quashed.

3. Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of both the respondents. He submits that the second respondent may be directed to re-consider the matter by taking into account the earlier orders of this Court in such regard.

4. The Hindu Succession Act, 1956 does not classify legal heirs into direct heirs and indirect heirs. As regards a Hindu male who dies intestate, Section 8 read with the Schedule to the Hindu Succession Act specifies the order of succession. If the deceased is survived by a class I legal heir, as specified in the Schedule, such class I legal heir would take to the exclusion of the legal heirs belonging to the other categories. However, if there is no class I legal heir, class II legal heirs in the first entry to the Schedule are entitled to inherit by succession. If those in the first entry of class II are unavailable, the entitlement will shift to those specified in the second entry and so on through the nine entries in the Schedule as regards class II legal heirs. As regards the grant of a Legal Heirship Certificate to a class II legal heir, by earlier orders, this Court held that the Tahsildar concerned has the authority to conduct an inquiry and grant a Legal Heirship Certificate if he is able to identify the relevant class II legal heirs. In the event that there is a dispute as to the class II legal heirs, the Tahsildar may relegate the parties to a jurisdictional civil court.

5. For reasons set out above, the impugned order is unsustainable inasmuch as the only reason specified therein is that the petitioner is not a direct heir. Therefore, the impugned order is quashed. As a corollary, the matter is remitted to the second respondent for re-consideration. For such purpose, the petitioner is permitted to re-submit the relevant application and documents within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the second respondent herein is directed to conduct an inquiry by providing a reasonable opportunity to the petitioner and the other legal heirs of Aathimoolam Pillai. Such inquiry shall be concluded within a period of two (2) months from the date of receipt of the re-submitted application from the petitioner. Upon conclusion of the inquiry, the second respondent is directed either to issue the Legal Heirship Certificate or issue a reasoned order indicating the reasons for refusal thereof.



6. W.P.(MD).No.16372 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD).No.13227 of 2021 is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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.

To

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

+1 CC to M/s.SPL. GP (SR-29111[F] dated 15/09/2021
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+1 CC to M/s.R.DEVARAJ, Advocate (SR-29392[F]
dated 16/09/2021)

W.P (MD) No.16372 of 2021
14.09.2021

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KB(28.09.2021) 3P 5C