



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.16823 of 2021

and

W.M.P(MD).No.13710 of 2021

Janani

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Ambasamudram Village,
Tirunelveli District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records of the second respondent by proceedings in Application bearing No.TN 7202101181132 dated 18.01.2021 and quash the same and consequently direct the second respondent to issue legal heirship certificate to the petitioner and her son namely Eswaran.

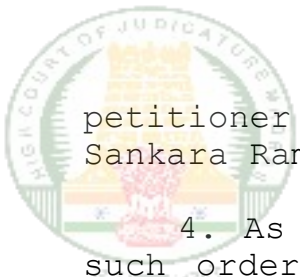
For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.P.Subbaraj,
Counsel for the State.

O R D E R

The petitioner challenges an order dated 18.01.2021 of the jurisdictional Tahsildar by which a request for issuance of a legal heirship certificate was refused.

2. The petitioner states that she was married to one Murali Sankar, son of Sankara Raman. Her husband died on 30.03.2019. At the time of death of the petitioner's husband, his mother had predeceased him. Consequently, the petitioner and her son were the only class-1 legal heirs in terms of the Hindu Succession Act, 1956.

3. The petitioner's mother-in-law, Rajam, died on 02.11.2015, and the petitioner's father-in-law, Sankara Raman, died on 09.12.2018. Even prior to his death, his mother, Anandavalli, died on 03.10.2010. At the time of death of the petitioner's father-in-law, the petitioner states that his son, namely, the petitioner's husband was the only class-1 legal heir. Upon his death, the



petitioner states that she and her son qualify as the legal heirs of Sankara Raman as per the Hindu Succession Act, 1956.

4. As regards the impugned order, the petitioner contends that such order is unsustainable because it cites only one reason for rejecting the request, namely, that the applicant is not a direct legal heir. By relying upon a circular issued on 09.08.2017 by the Revenue Administration, Disaster Management and Mitigation Department, the petitioner contends that the widow of a predeceased son is a direct legal heir.

5. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of both the respondents. He submits that the second respondent may be directed to reconsider the matter in accordance with earlier orders of this Court in this regard.

6. The Hindu Succession Act, 1956 does not classify legal heirs into direct heirs and indirect heirs. As regards the legal heirs of a Hindu male who dies intestate, Section 8 of the Hindu Succession Act, 1956 is relevant. Section 8 specifies that the property of a Hindu male who dies intestate shall devolve on the relatives specified in Class-1 of the Schedule. In case there is no heir who falls within Class-1, the property would devolve on relatives specified in Class-2 of the Schedule. In case there is no heir in either Class-1 or Class-2, the property would devolve upon the agnates of the deceased. Therefore, the said Section 8 is required to be read in conjunction with the Schedule to the Hindu Succession Act, 1956. The Schedule specifies the persons who would qualify as Class-1 legal heirs and as Class-2 legal heirs. At the time of death of the petitioner's father-in-law, his son, who is now deceased, was alive and would qualify as the only Class-1 legal heir. Such certificate could indicate that he has since expired. The petitioner would be entitled to rely on the legal heir certificate in her husband's name and the legal heir certificate of her husband, which has already been issued.

7. In view of the aforesaid discussion and analysis, the impugned order is unsustainable. Consequently, such impugned order is quashed. As a corollary, the matter is remitted to the second respondent for reconsideration. The second respondent is directed to reconsider the petitioner's application for grant of a legal heir certificate by taking into account the observations contained in this order. Upon such reconsideration, the second respondent is directed to issue the legal heirship certificate or issue a reasoned order indicating the reasons for refusal to grant such legal heirship certificate. In any event, the entire exercise shall be concluded within a period of two months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any other legal heirs.



8. W.P(MD).No.16823 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD).No.13710 of 2021 is closed.

Sd/-

Assistant Registrar (Records)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Ambasamudram Village,
Tirunelveli District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-29739[F] dated 21/09/2021)

+1 CC to M/s.SPL. GP (SR-29759[F] dated 21/09/2021)

W.P. (MD) No.16823 of 2021
20.09.2021

NSN (CO)

KB (28.09.2021) 3P 5C