



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17240 of 2021

Emelda Kalyan

... Petitioner

Vs.

The Tahsildar,
Thiruchirapalli West,
Thiruchirapalli District.

... 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 order issued by the respondent herein in his proceedings in O.Mu.Aa.No.1/1461/2021 dated 02.09.2021 and quash the same, consequentially direct the respondent to issue the legal heir certificate in favour of the petitioner and other legal heirs as Class-II, legal heirs of the petitioner brother Felix Sundararaj S/o. T.A.Susainathan who died as a bachelor on 24.01.2021 within the stipulated period fixed by this Court.

For Petitioner : Mr.R.Rajaraman

For Respondent : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioner assails an order dated 02.09.2021, by which the request of the petitioner for issuance of a legal heir certificate was refused on the ground that the petitioner is not a direct heir of the person concerned.

2.The petitioner states that her brother, Felix Sundararaj, died intestate as a bachelor on 24.01.2021. The petitioner states that both her father and mother pre-deceased her brother. Consequently, the legal heirs of her brother are the petitioner and her siblings. Therefore, the petitioner submitted an application on 21.07.2021 seeking issuance of a legal heir certificate by enclosing all relevant documents. In response, the respondent issued the impugned order dated 02.09.2021 rejecting the request on the ground that the petitioner is not a direct heir.



3.The petitioner relies upon the earlier orders of this Court in this connection. The order in **Vellaichamy Vs. The District Collector, Tirunelveli and another, W.P.(MD)No.11721 of 2018, order dated 31.07.2018 and the order dated 27.08.2021 in W.P.No.10778 of 2021 (V.S.Saravanavel Vs. The Thasildar, Pallavaram Taluk, Chengalpattu District)** are relied upon.

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

5.The Indian Succession Act, 1925 is the law governing succession among Christians. Section 47 thereof prescribes that if a person dies intestate without a lineal descendant or father or mother, the property of such intestate shall be divided equally between his brothers and sisters. In view of Section 47 of the Indian Succession Act, 1925, the impugned order is not sustainable. Indeed, the Indian Succession Act, 1925 does not classify legal heirs into direct heirs and indirect heirs.

6.Therefore, the impugned order dated 02.09.2021 is not sustainable and is hereby quashed. As a corollary, the matter is remitted to the respondent for reconsideration. The respondent is directed to reconsider the matter by taking into account the observations contained in this order, and by conducting an inquiry to ascertain the legal heirs of Felix Sundararaj. A reasonable opportunity shall be granted to the petitioner and the other legal heirs. Upon conclusion of such inquiry, the respondent is directed to either issue the legal heir certificate or indicate reasons for refusal to do so by a written order within a period of two months from the date of receipt of a copy of this order.

7.W.P.(MD)No.17240 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

The Tahsildar,
Thiruchirapalli West,
Thiruchirapalli District.

WEB COPY

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-30215[F] dated 24/09/2021)

+1 CC to M/s.SPL.GP (SR-30326[F] dated 27/09/2021)

W.P (MD) No.17240 of 2021
24.09.2021

MGJ(06.10.2021) 3P 4C