



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.19191 of 2021

Govindaraj

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Mudukulathur Taluk,
Ramanathapuram District.

...Respondents

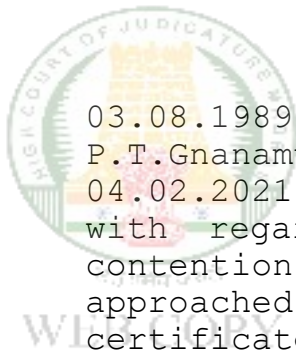
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in vide No. ~~9.0.216~~ /6380/2021 dated 30.09.2021 and quash the same as illegal and consequently direct the second respondent to issue the legal heir certificate to the petitioner.

For Petitioner : Mr.A.Vadivel
For Respondents : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner challenges an order dated 30.09.2021 of the second respondent by which the application for a legal heirship certificate in respect of the petitioner's deceased brother, namely, P.T.Gnanamuthu was rejected.

2. The petitioner states that his parents Sri Piravi @ Thurairaj and Smt.Sethu had five children, namely, Smt.Amirtham, Sri.P.T.Gnanamuthu, Smt.Sironmani, Sri.Jeyachandran and Sri.Govindaraj (petitioner). It is stated that the petitioner's mother passed away on 20.02.1984 and his father passed away on



03.08.1989. The petitioner asserts that all the siblings, except P.T.Gnanamuthu, were married. P.T.Gnanamuthu died as a bachelor on 04.02.2021. The petitioner relies upon the Death Certificate issued with regard to the death of his brother in support of such contention. After the death of his brother, the petitioner approached the second respondent seeking a legal heirship certificate on 22.03.2021. Such request was rejected by the impugned order. The petitioner assails the impugned order on the ground that the only reason cited therein is that the petitioner is a class II legal heir.

3. 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 re-consider the matter in light of earlier judgments of this Court on this issue.

4. Section 8 of the Hindu Succession Act, 1956, deals with the legal heirs of a deceased Hindu male who dies intestate. Section 8 is required to be read along with the schedule to the enactment. The schedule to the Hindu Succession Act specifies both the class I and class II legal heirs. As per Section 8, class I legal heirs, if available, would succeed to the estate of the deceased Hindu male who dies intestate to the exclusion of all other legal heirs. If class I legal heirs are unavailable, class II legal heirs are entitled to succeed. The list of class II legal heirs is specified in the schedule to the Hindu Succession Act, 1956. Such class II legal heirs are specified in 9 entries and the order of succession is such that the entitlement will proceed from the first entry to the second entry and so on until the ninth entry. In several earlier judgments, this Court held that an application for legal heirship certificate should not be rejected on the ground that such certificate would only be granted to a class I legal heir. By way of caveat, it may be added that the Tahsildar is entitled to direct the parties to take recourse to proceedings before a civil court in case it is concluded after inquiry that there is a dispute as to who qualifies as class II legal heirs. In the absence of such dispute, if the Tahsildar is in a position to identify the appropriate class II legal heirs, a legal heir certificate should not be denied merely because they are class II and not class I legal heirs.

5. For reasons set out above, the impugned order is unsustainable and is hereby quashed. As a corollary, the matter is remitted to the Tahsildar for re-consideration. The Tahsildar is directed to re-consider the petitioner's application for a legal heirship certificate by taking into account the observations set out in this order and dispose of the same after conducting an inquiry by providing a reasonable opportunity to the petitioner and to the other legal heirs of the deceased P.T.Gnanamuthu. At the conclusion of such inquiry, either the legal heir ship certificate as requested



setting out the reasons for refusal to do so. In any event, the entire process shall be concluded within a period of three (3) months from the date of receipt of a copy of this order.

6. Accordingly, W.P.(MD).No.19191 of 2021 stands disposed of. There will be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/nsr

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 Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Mudukulathur Taluk,
Ramanathapuram District.

+1 CC to M/s.A.VADIVEL, Advocate (SR-33231[F] dated 29/10/2021)

+1 CC to M/s.SPL.GP (SR-33356[F] dated 01/11/2021)

**W.P (MD) No.19191 of 2021
29.10.2021**

MGJ/PM(18.11.2021) 3P 5C