

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.29786 of 2022

(Through Hybrid mode)

Akhtar Mahammed

....

Petitioner

Mr. Pranab Ranjan Chhatoi, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. A. K. Sharma, AGA

Mr. J. K. Lenka, Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER

14.12.2022

Order No.

02.

1. Mr. Chhatoi, learned advocate appears on behalf of petitioner and submits, prayer of his client is for direction upon opposite party no.3 to cancel legal heir certificate issued by the Tahsildar in Misc. Case no.435 of 2007 and consequential directions. He draws attention to affidavit filed on behalf of Public Information Officer (PIO), Bhubaneswar Tahasil saying that record of Legal Heir Misc. Case no.435 of 2007 was not readily available but from the register it was confirmed that a legal heir certificate was issued.

2. On query from Court, Mr. Chhatoi refers to rule 10 in Odisha Miscellaneous Certificate Rules, 2019 providing for appeal. He

submits, since the case record is not available, his client is before the writ Court.

3. Pursuant to direction for issuance of notice upon added opposite party, Mr. Lenka, learned advocate appears on her behalf and files affidavit dated 8th December, 2022. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State.

4. The deceased was known as Samser Mahammed. It appears from impugned legal heir certificate dated 30th June, 2007 that application for it was made by one Rahima Bibi aged about 45 years, claiming relationship as wife of the deceased. On perusal of aadhar card of added opposite party, disclosed by petitioner, it is clear that she is wife of Afsar Mahammed, who was son of Samser Mahammed and died on 12th February, 2019. The affidavit of added opposite party, also supports contention of petitioner that the deceased left behind his widow Gulshan Bibi, who died on 7th September, 2015. The situation is further compounded by submission of petitioner that the record in respect of issuance of certificate is not available with the Tahsildar.

5. The matter regarding issuance of impugned legal heir certificate is sent back to the Tahsildar. Said office is to make thorough inquiry regarding the application made, on which

impugned legal heir certificate was issued. There must be verification about identities of the legal heirs, upon proper inquiry made at native place, Jharpada, Muslim Basti, Bhubaneswar. In event the Tahsildar finds as contended by petitioner and added opposite party that Samser Mahammed, who died on 9th December, 2001 had left behind his wife Gulshan Bibi, two sons and two daughters, the office will take appropriate steps to cancel the certificate and issue afresh. The inquiry and action taken must be informed to petitioner and added opposite party, within three months from communication. The action taken report along with this order must also be sent opposite party no.3. Petitioner and added opposite party may also inform opposite party no.3. This last direction because, the State Chief Information Commissioner by order dated 19th May, 2022 has authorized said opposite party under rule 7 (1)(C) of the Odisha Information Commission (Appeal Procedure) rules, 2006, to cause inquiry into the circumstances leading to missing of the relevant documents and for appropriate administrative action against those concerned.

6. The writ petition is disposed of.

(Arindam Sinha)
Judge