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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.5792 of 2022

Jayaraman

...Petitioner

Vs

The Revenue Divisional Officer,
Revenue Divisional Office,
Chengalpattu.

...Respondent

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent made in Na.Ka.2630/2021/E1 dated 02.12.2021 and quash the same and direct the Respondent to issue fresh legal heir certificate.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.C.Jayaprakash
Government Advocate

O R D E R

Mr.C.Jayaprakash, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally. Hence, by consent of both learned counsel, this Writ Petition is disposed finally even at the stage of admission.

2. The petitioner challenges an order passed by the sole respondent rejecting his request for amendment of legal heirship certificate issued under proceedings bearing No.2715/17/A4 dated 07.12.2017. This legal heirship certificate has been issued pursuant to the demise of the petitioner's father, one Munusamy, who passed away on 24.04.1998. The petitioner's mother had passed away prior thereto. The petitioner and five other siblings who figure in the legal heirship certificate are the children of the said Munusamy, siblings of the petitioner herein.



3. The petitioner claims to be deaf and dumb and in such circumstances, would allege that his siblings have obtained legal heirship certificate consciously and purposely excluding him from the benefit thereof. The application filed by the siblings did not reveal the presence of the petitioner as one of the legal heirs and thus the aforesaid legal heirship certificate has been issued without mentioning the name of the petitioner. Upon coming to know of the same, the petitioner has approached the second respondent seeking modification. However, the respondent has rejected his request citing the time limit of one year set out under Circular 11/2017 in Rc.No.RA5(3)/180/2017 dated 09.08.2017.

4. The aforesaid Circular issued by the Principal Secretary/Commissioner of Revenue Administration, under clause 8 thereof, states that if any legal heir disputes the entries in a legal heirship certificate, an appeal would lie to the respective Revenue Divisional Officer within a period of one year for the purpose of effecting alterations, corrections, deletions or inclusions. Clause 9 thereof provides for a further revision before the District Collector within three years from date of issue of appellate order, if so aggrieved.

5. Mr.Jayaprakash would thus suggest that the petitioner may be directed to file a revision as against the impugned order. However, I would believe that this is a case where the petitioner should be heard by the respondent for the reason that two sisters of the petitioner have filed affidavits dated 11.02.2022 supporting the stand of the petitioner.

6. Upon enquiry conducted by the Revenue Inspector, a report has been filed by him on 17.11.2021, wherein he too confirms the position that the petitioner, i.e, Jayaraman is one of the siblings of the legal heirs mentioned in the legal heirship certificate.

7. In the interests of substantial justice, I thus condone the delay in approaching the respondent, and direct the Revenue Divisional Officer to consider the representation of the petitioner dated 28.10.2021 in line with the enquiry report of the Revenue Inspector dated 17.11.2021 and the supporting affidavits filed by the petitioner's sisters dated 11.02.2022, cause enquiry by issuing notices to other three siblings of the petitioner mentioned in the legal heirship certificate, ascertain the correct facts and pass orders modifying/amending the legal heirship certificate within a period of six (6) weeks from today, if so warranted.



8. Impugned order dated 02.12.2021 stands quashed and this Writ Petition allowed. No costs.

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Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

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To

The Revenue Divisional Officer,
Revenue Divisional Office,
Chengalpattu.

+1cc to Mr.J.Franklin, Advocate Sr.No.17485

+1cc to the Government Pleader Sr.No.18157

W.P.No.5792 of 2022

AK(CO)
RVM(04/05/2022)