



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.11183 of 2022
and
WMP No.10762 of 2022

J.Gopinath

...Petitioner

vs.

1. The Tahsildar,
Tahsildar Office,
Opp to Thiruchengode Town Police Station,
Paramathi Velur Road,
Thiruchengode Town & Taluk,
Namakkal District - 637 211.

2. The Revenue Inspector,
Thiruchengode Town & Taluk,
Opp. to Thiruchengode Town Police Station,
Paramathi Velur Road,
Namakkal District - 637 211.

3. T.R.Loganathan
4. T.R. Savithri
5. J.Dhanasekaran
6. J.Ganesan
7. J.Sathya

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent in O.Mu.80/2022/A2, dated 10.01.2022 and quash the same and consequently direct the 1st respondent to issue legal heirship certificate in name of petitioner and 3 to 7th respondent herein.

For Petitioner : Mr.K.Sathishkumar
For Respondents : Mr.S.J. Mohamed Sathik,
Government Advocate for R1 & R2

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



2. This writ petition has been filed challenging the order dated 10.01.2022 passed by the first respondent rejecting the petitioner's application seeking for issuance of Legal Heirship Certificate for the deceased on the ground that the petitioner is not a direct Legal heir.

3. The petitioner has challenged the impugned order on the ground that it is a non speaking order and the order has been passed without holding any enquiry. The petitioner has also referred to various orders passed by this Court in identical matters, where it was held that Legal Heirship Certificate can be issued to Class - II legal heirs also.

4. Heard Mr.K.Sathishkumar, learned counsel for the petitioner and Mr.S.J. Mohamed Sathik, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2.

5. Admittedly as seen from the impugned order, the petitioner has not been heard and it is a non speaking order with regard to the contentions raised by the petitioner in this writ petition. Being a non speaking order and the petitioner having not been granted sufficient opportunity to put forward his contentions, this Court is of the considered view that the impugned order has to be quashed and the matter remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner including granting him right of personal hearing though there may be conflicting decisions rendered by the Division Bench of this Court with regard to whether Legal Heirship Certificate can be issued for Class - II Legal Heirs. No prejudice would be caused to the respondents, if the petitioner's application seeking for issuance of Legal Heirship Certificate is considered on merits and in accordance with law after affording a fair hearing to the petitioner and also by considering the decisions rendered by this court.

6. For the foregoing reasons, the impugned order dated 10.01.2022 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and the respondents 3 to 7 including granting them right of personal hearing and the first respondent is directed to pass final orders within a period of twelve weeks from the date of receipt of a copy of this order.



7. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Tahsildar,
Tahsildar Office,
Opp to Thiruchengode Town Police Station,
Paramathi Velur Road,
Thiruchengode Town & Taluk,
Namakkal District - 637 211.

2. The Revenue Inspector,
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W.P.No.11183 of 2022

+1 cc to Special Government Pleader Sr.NO. 33082

SKM(CO)
A.SK(14/06/2022)