



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.12220 OF 2022

V.R.Venkatesan

... Petitioner

Versus

1. The District Collector,
Chennai District.

2. The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to issue legal heir certificate of the deceased younger brother Mr.Srinivasan to the petitioner and consider the petitioner representation dated 28.12.2021 to the respondents.

For Petitioner : Mr.G.Dakshinamurthy

For Respondents : Mr.S.Prabakar
Government Advocate

O R D E R

Mr.S.Prabakar, learned Government Advocate takes notice for the respondents. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself.

2. According to the petitioner, his younger brother by name V.R.Srinivasan lived with the petitioner and his family from his childhood. During his life time, the petitioner's brother had taken the spiritual path and hosted a you tube channel called Seenu Swamigal Spiritual Talk. While so, on 14.11.2021, the petitioner's younger brother V.R.Srinivasan died and it was the



petitioner who had performed his last rites. Since the petitioner is the class II surviving legal heir of the deceased, he submitted a representation dated 24.11.2021 along with necessary documents to the second respondent for issuance of legal heirship certificate, but there was no response. The petitioner therefore submitted another representation dated 28.12.2021 to the first and second respondents. In response, the first respondent sent a communication dated 14.02.2022 stating that the representation dated 28.12.2021 has been forwarded to the second respondent for necessary action. However, so far, the second respondent has not called upon the petitioner for any enquiry or issued the legal heirship certificate. Feeling aggrieved, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner placed reliance on the order dated 06.03.2020 passed by this Court in WP No. 5883 of 2020 (P. Riza Ahmed vs. The Tahsildar, Walajah Taluk, Walajah, Ranipet District) and submitted that in the aforesaid decision, this Court, after analysing the various decisions in the field, has concluded that a Tahsildar is empowered to issue even Class II legal heir certificate provided he is satisfied with the genuineness of the claim made by the applicant after conducting an enquiry. Only in cases where the Tahsildar is not satisfied with the genuineness of the claim, he can direct the applicant to approach the competent Civil Court. For better appreciation, the relevant paragraphs of the said order are reproduced hereunder:

"5. Admittedly, the petitioner is not the Class I legal heir of the deceased Raziya Begum, being the brother, he is only the Class II legal heir. However, as claimed by the petitioner, the deceased is a married person and she has no other legal heirs except her brother. Since in the absence of any other Class I legal heir, there is no impediment for the respondent/Tahsildar to consider the said request as per the guidelines issued by the Government, which reads as follows:

1. As per the present procedure the Tahsildar has to issue the legal heirship certificate to the direct heir.

2. The Tahsildars should avoid issuing legal heirship certificate in respect of the following items mentioned below, apart from the direct heirs and the applicants should be instructed to get the certificate through the Civil Court.



6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid order passed by this court, the second respondent is directed to consider the representation of the petitioner dated 28.12.2021, afford an opportunity of hearing to the petitioner and consider the documentary evidence that may be submitted by him and thereafter pass an order, on merits and in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The District Collector,
Chennai District.
2. The Tahsildar,
Mambalam Taluk,
Chennai - 600 078.

+lcc to Mr.C.Balaji, Advocate, S.R.No.31206
+lcc to the State Government Pleader, S.R.No.31312

W.P.NO.12220 OF 2022

NR(CO)
PBS/18/05/2022