

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.14100 OF 2022

AND

W.M.P.NO.13327 OF 2022

K.Mariappan

... Petitioner

-Vs-

The Tahsildar,  
Mambalam Taluk,  
Chennai District.

... Respondent

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records related to the impugned rejection order in O.Mu.El/281/2022 dated 22.03.2022 passed by the respondent and quash the same and consequently direct the respondent to issue second class legal heirs certificate of the deceased K.Sankar, S/o.Late Krishnasamy died on 16.07.2021.

For Petitioner : Mr.D.Bennington

For Respondent : Mr.S.J.Mohammed Sathik  
Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order dated 22.03.2022, under which, the petitioner's application, seeking for issuance of legal heirship certificate for his deceased brother K.Sankar, who died on 16.07.2021, was rejected on the ground that the petitioner is not a direct legal heir.

2. The issue is now well settled by various decisions of this Court that there is no prohibition for the respondent to issue legal heirship certificate for Class-II legal heirs also. In the case on hand, the petitioner claims that he is the brother of the deceased, who died as a bachelor and according to the learned counsel for the petitioner, the petitioner along with the other brother and sister of the deceased are the only legal heirs. No opportunity of hearing has also been granted under the impugned order rejecting the petitioner's application, seeking for issuance of legal heirship certificate for the deceased brother K.Sankar.

3. Being a non-speaking order with regard to the contentions raised by the petitioner in this writ petition and in view of the settled law that there is no prohibition for the respondent to issue legal heirship certificate for Class-II legal heirs also and the order being passed in violation of the principles of natural justice as no opportunity of hearing was granted to the petitioner, this Court is of the considered view that the impugned order passed by the respondent has to be necessarily quashed and the matter has to be remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner, including granting him the right of personal hearing.

4. For the foregoing reasons, the impugned order dated 22.03.2022 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and the other legal heirs of the deceased K. Sankar, including granting them the right of personal hearing. The respondent shall pass final orders within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sr

To

The Tahsildar,  
Mambalam Taluk,  
Chennai District.

+1cc to Mr.D.Bennington, Advocate, S.R.No.36370  
+1cc to the Government Pleader, S.R.No.36456

W.P.NO.14100 OF 2022

VG-II (CO)  
PBS/28/06/2022