IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.18472 of 2022

S.R.Padma .. Petitioner

Vs

1. The Revenue Divisional Officer (South)
   Revenue Divisional Office
   Anna Salai, Guindy
   Chennai 600 032.

2. The Tahsildar
   Sholinganallur Taluk Office
   No.1, Rajiv Gandhi Salai, 1st Cross Street
   Sholinganallur, Chennai 600 119.

3. The Revenue Inspector
   No.1, Rajiv Gandhi Salai, 1st Cross Street
   Sholinganallur, Chennai 600 119.

4. Geethika Nagalakshmi
5. Keerthana Nagalakshmi .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order Na.Ka.No.2066/2022/A2 dated 22.06.2022 passed by the 2nd respondent herein, quash the same and consequently direct the 2nd respondent to issue legal heirship certificate of the deceased D.L.Raja to the petitioner.

For Petitioner	:	Mr.S.Rajasekar
For Respondents 1 to 3	:	Mr.R.Kumaravel Additional Government Pleader
For Respondent 4	:	No Appearance
For Respondent 5	:	Mr.S.Vijay

O R D E R

The prayer sought for in this writ petition is a writ of Certiorarified Mandamus calling for the records relating to the order Na.Ka.No.2066/2022/A2 dated 22.06.2022 passed by the second respondent herein, quash the same and consequently direct the second respondent to issue legal heirship certificate of the deceased D.L.Raja to the petitioner.

2. The petitioner had applied for legal heir certificate for her husband, one D.L.Raja. The said plea was rejected by the order passed by the respondent Tahsildar dated 22.06.2022, where, the respondent Tahsildar has stated that since the petitioner is the second wife of the deceased, the legal heir certificate could not be given, for which, he has cited a circular issued by the Commissioner of the Revenue Administration dated 24.09.2019. Challenging the same, the present writ petition has been filed.

3. Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner, who would submit that the petitioner is the second wife of the deceased husband and the marriage was solemnized between them only after the demise of the first wife. Therefore, the reason cited by the respondent Tahsildar in the impugned order would not stand in the legal scrutiny.

4. However, Mr.R.Kumaravel, learned Additional Government Pleader appearing for the official respondents would submit that in order to avoid these kind of controversies, how the application for getting legal heir certificate should be dealt with is clearly stated by the Government in the recently issued Government Order in G.O.Ms.No.478 dated 29.09.2022 of the Revenue and Disaster Management Department, where, so many mandatory guidelines have been provided.

5. One of such guidelines is that if anybody is aggrieved by the order passed by the Tahsildar, either granting or refusing to grant the legal heir certificate, an appeal can be preferred to the concerned Revenue Divisional Officer and once such an appeal is preferred, that would be considered and decided by the Revenue Divisional Officer within a time frame.

6. Learned Additional Government Pleader therefore submits that insofar as the challenge made against the impugned order before this Court is concerned, it is without exhausting the simple appeal remedy, which is provided to the petitioner to exhaust and hence, on that ground, this writ petition can be rejected he contended.

7. I have considered the submissions made by the learned counsel appearing for the parties.

8. The petitioner may have a good case to be agitated, but, the thing is only the forum. If the Tahsildar passed an order refusing to grant legal heir certificate, an appeal can be preferred to the Revenue Divisional Officer concerned. Like that, if the Tahsildar grants any legal heir certificate, even if it is to be opposed, that can also be preferred by way of appeal to the Revenue Divisional Officer. This has been clearly mentioned in the Government Order referred above. When that being so, the petitioner need not agitate the issue before this Court by filling the present writ petition invoking the extraordinary jurisdiction of this Court under Article 226.

9. In that view of the matter, this writ petition is disposed of with the following orders:

(i) That it is open to the petitioner to file an appeal against the impugned order dated 22.06.2022 to the Revenue Divisional Officer concerned as per the guidelines prescribed by the Government through G.O.Ms.No.478 dated 29.09.2022 of the Revenue and Disaster Management Department.

(ii) Once such an appeal is filed, the Revenue Divisional Officer concerned shall consider the same and decide it on merits and in accordance with law within a period of four weeks thereafter.

10. With these directions, this writ petition is disposed of. There shall be no order as to costs.

02.11.2022

Index: Yes/No
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R. SURESH KUMAR, J.

(drm)

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