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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.22594 OF 2021

&

W.M.P.NO.23823 OF 2021

R.Sundaresan

... Petitioner

vs.

The Tahsildar
Purasawalkam Taluk Office,
Chennai

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records of the respondent in petitioner's application No.TN720210812714 dated 31.08.2021 and quash the same and direct the respondent to issue legal heirship certificate of Late Mrs.D.P.Tamilselvi including the name of the petitioner's adopted daughter on the basis of the petitioner's application dated 12.08.2021 within the stipulated time.

For Petitioner : Mr.M.Venkatak Krishnan

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

ORDER

This writ petition has been filed challenging the order dated 31.08.2021 passed by the respondent rejecting the petitioner's application dated 12.08.2021 seeking for issuance of legal heirship certificate for her deceased wife D.P.Tamilselvi on the ground that the petitioner has not produced the necessary documents to prove that A.Vijayalakshmi is the petitioner's adopted daughter.



2. The petitioner has challenged the impugned order on the ground that by total non application of mind to the documents produced by the petitioner and by violation of principles of natural justice, the impugned order has been passed. According to the petitioner, there is no dispute raised by anyone that A.Vijayalakshmi is not the adopted daughter of the petitioner. Though all the necessary documents were also produced before the respondent, the same has not been considered. In such circumstances, this writ petition has been filed.

3. Heard Mr.M.Venkatakrishnan, learned counsel for the petitioner and Mr.S.J.Mohamed Sathik, learned Government Advocate appearing for the respondent.

4. The documents namely Community certificate of A.Vijayalakshmi, Voter identity card of A.Vijayalakshmi, Family Card of the petitioner, ESI Corporation Identity Card of the petitioner, Wedding Invitation and Marriage Reception of A.Vijayalakshmi, Settlement Deed executed by the petitioner in favour of A.Vijayalakshmi, Death Certificate of D.P.Tamilselvi and Copy of the receipt acknowledging the payment of fee for issuance of legal heir certificate which has been filed along with this writ petition, has not been considered by the respondent. No opportunity of hearing has also been granted to the petitioner under the impugned order.

5. Being a non speaking order with regard to the documents produced by the petitioner and being an order passed by violating the principles of natural justice, the impugned order 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 a right of personal hearing.

6. For the foregoing reasons, the impugned order dated 31.08.2021 passed by the respondent is hereby set aside and the matter is remanded back to the respondent for fresh consideration. The respondent shall consider the petitioner's application dated 12.08.2021 on merits and in accordance with law and pass final orders within a period of eight weeks from the date of receipt of a copy of this order, after affording a fair hearing to the petitioner including granting him a right of personal hearing and also permitting him to produce necessary documents to prove that A.Vijayalakshmi is his adopted daughter.



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

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

The Tahsildar
Purasawalkam Taluk Office,
Chennai

+1cc to the Government Pleader, S.R.No.37169

W.P.No.22594 of 2021

PM(CO)
RLP(28/06/2022)