



W.P.No.29038 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29038 of 2022

Devaki

.... Petitioner

-Vs-

The Tahsildar
Cheyyur Taluk
Chengalpattu District-603 304.

.... 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 impugned proceedings in Na.Ka.5171-2022-A6 dated 23.09.2022 and quash the same and directing the respondent to issue II Class Legal Heir Certificate to the petitioner.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.T.K.Saravanan, Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.5171-2022-A6 dated 23.09.2022 and quash the same and directing the respondent to issue II Class Legal Heir Certificate to the petitioner.



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2. The petitioner's brother one Selvaraj died on 26.03.2016 in a road accident. According to the petitioner, the petitioner is the sister of the deceased person and all other Class I and Class II legal heirs of the deceased person are no more. Therefore, according to the petitioner she is the only surviving Class II legal heir of the deceased person and in order to get the Class II legal heir certificate the petitioner made an application to the respondent. The said application was considered and rejected by the impugned order dated 23.09.2022.

3. Assailing the same, the learned counsel for the petitioner would submit that the petitioner only asks for Class II legal heir certificate and that could have been given without rejecting the same and without directing the petitioner to approach the Civil Court. Therefore, on that ground the impugned order is not sustainable, he contended.

4. However, learned Government Advocate appearing for the respondent would submit that the Government recently passed a Government Order in G.O.Ms.No.478, Revenue & Disaster Management, Revenue Administration Wing, RA-3 (2) Section dated 29.09.2022, under which the power to grant Class II legal heir certificate is vested on the Revenue authorities and prior to the said



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Government Order, the competent Civil Courts were only vested with the power to grant Class II legal heir certificate and hence the impugned order has been passed, of course rightly. However, now that the Government Order has been issued, hence the plea of the petitioner can be considered by the respondent.

5. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

6. As has been rightly pointed out by the learned Government Advocate, prior to 29.09.2022 the position was different, where such power is not vested with the Tahsildar. Therefore, stating that the impugned order has been passed. Insofar as the date of the impugned order is concerned which is prior to the Government Order dated 29.09.2022, we cannot find fault with the reason stated by the respondent. But at the same time, now that the Government has come forward to issue G.O.Ms.No.478, Revenue & Disaster Management, Revenue Administration Wing, RA-3 (2) Section dated 29.09.2022, the plea of the petitioner can very well be considered and orders can be passed on merits and in accordance with law. However, for such gesture the petitioner has to approach the respondent by filing an on-line application seeking Class II legal heir certificate.



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7. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

“The petitioner is directed to file on-line application seeking Class II legal heir certificate to the respondent and on receipt of such application, after verifying the same the application can be processed and orders to that effect on merits and in accordance with law taking into account the guidelines as referred to above shall be passed by the respondent within a period of four weeks from the date of receipt of a copy of this order.”

With the above direction, this writ petition is disposed of. No costs.

03.11.2022

Index : Yes/No
Internet : Yes/No
KST
To

The Tahsildar
Cheyyur Taluk
Chengalpattu District-603 304.



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R. SURESH KUMAR, J.

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