



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.2954 of 2022

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K.Batharnisha @ Subhani Begum

... Petitioner

/Vs./

The Thasildar,
Madurai West Taluk,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in O.Mu. No.4581/2021/AP dated 21.12.2021 and quash the same and subsequently direct the respondent to issue legal heir certificate to the petitioner after conducting enquiry.

For Petitioner

: Mr.R.Muruga Boopathy

For Respondent

: Mr.M.Lingadurai

Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 21.12.2021 rejecting the petitioner's application seeking issuance of legal heirship certificate for Fathimazohara @ Noor Banu, who died on 28.04.2021 on the ground that the petitioner is a Class-II legal heir. The petitioner is the sister of the deceased Fathimazohara @ Noor Banu, who died on 28.04.2021, leaving behind no issues. Her husband also predeceased her. The petitioner applied for legal heirship certificate for her deceased sister, Fathimazohara @ Noor Banu, which is rejected under the impugned order on the ground that the petitioner is only a Class-II legal heir. Aggrieved by the same, this writ petition has been filed.

2. Heard Mr.R.Muruga Boopathy, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice for the respondent.

3. Admittedly, there is no prohibition and the statute for grant of legal heirship certificate for Class-II legal heirs. The petitioner claims to be the sister of the deceased Fathimazohara @ Noor Banu, who died on 28.04.2021. According to the petitioner, her sister died issueless and her husband also predeceased her and



therefore, the petitioner is only Class-II legal heir, entitled to the assets of the deceased. She has submitted an application with the respondent, seeking for issuance of legal heirship certificate in her favour, which has been rejected under the impugned order dated 21.12.2021.

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4. Since there is no legal prohibition for grant of legal heirship certificate for Class-II legal heirs and also the respondent, in non application of mind, has passed the impugned order, rejecting the petitioner's application, seeking for issuance of legal heirship certificate for her deceased sister, Fathimazohara @ Noor Banu, the impugned order dated 21.12.2021 passed by the respondent has to be quashed and the matter has to be remanded back to the respondent for fresh consideration on merits and in accordance with law, after hearing all the necessary parties, including the petitioner.

5. Accordingly, the impugned order dated 21.12.2021 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration and the respondent, after affording a fair hearing to the petitioner as well as other necessary parties, if any, shall pass final orders, on merits and in accordance with law, with regard to the petitioner's application seeking for issuance of legal heirship certificate, in her name for her deceased sister, Fathimazohara @ Noor Banu, who died on 28.04.2021, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

The Thasildar,
Madurai West Taluk,
Madurai.

+1cc to Mr.R.MURUGA BOOPATHY, Advocate Sr.No.6876

+1cc to Special Government Pleader, Sr.No.6542

order made in
W.P. [MD]No.2954 of 2022

Dated:
15.02.2022

SA(05.03.2022) 3P 4C