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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.16710 of 2022

A.Ramakrishnan

..Petitioner

Vs

1.The District Revenue Officer,
Tirunelveli Collectorate Campus,
Tirunelveli.

2.The Tahsildar,
Nanguneri Taluk,
Tirunelveli.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to issue legal heir certificate in favour of the Petitioner claimed under Clause-II legal heir of his elder brother Late A.Meenakshi sundaram vide the Petitioner's application, dated 20.05.2022.

For Petitioner :Ms.T.Sathya Selvi

For Respondents:Mr.A.Kannan
1 and 2 Additonal Govt.Pleader

ORDER

The Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents to issue legal heir certificate in favour of the Petitioner claimed under Clause-II legal heir of his elder



brother Late A.Meenakshi sundaram vide the Petitioner's application, dated 20.05.2022.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The case of the Petitioner is that the Petitioner's brother A.Meenakshisundaram died due to heart attack on 15.4.2022 at the age of 74 years.The Petitioner parents died some 40 years ago.The Petitioner's sister in law Mrs.Swarnalatha also died on 2.6.2014. Hence the Petitioner became the sole owner of the properties which are self earned by his brother during his lifetime. After the death of his father and mother, the Petitioner was not in a position to collect their death certificate.The Petitioner's brother has no issues and he worked as Stores Officer in Tamil Nadu Electricity Board and draw pension after his superannuation till his death on 15.4.2022. Since there is no clause-I legal heir to his brother, he nominated the Petitioner as his legal heir before the Tamil Nadu Electricity Board. Hence the Petitioner applied for legal heirship certificate to the second respondent on 20.5.2022 with necessary documents.Since the same was not provided to him, the Petitioner has filed the present Writ Petition for the relief stated supra.

4.As per the orders of the Full Bench of this Court in **W.P.Nos.**



25247 of 2021 and batch of cases(P.Venkatachalam and others .vs. The Tahsildar, Kumarapalayam Taluk and others),

dated 17.6.2022,in Page No.112, Paragraph 65(f) and (6) it has been held as follows:

"F.The classification of persons as Class-I and Class-II heirs in Circular No.9 of 2019, dated 24.09.2019 and their application to the heirs of a deceased female Hindu or non hindu would lead to chaos. We find the entire edifice of the classification in the Circular is founded on a fallacy that the concept of Class-I and Class-II legal heirs which are applicable to the heirs of the deceased Hindu male under Section 8 of the Hindu Succession Act could be extended across the Board to all religions.

6.Consequently, the Government of Tamil Nadu is directed to issue fresh Government Order in lieu of Circular No.9 of 2019 without the anomalies pointed out, supra, in particular, the usage of expressions" Class-I and Class-II" legal heirs under the Hindu Succession Act, 1956. The Government will also consider incorporating a father, blood brother/sister as eligible applicants for unmarried deceased, as also the administrative remedies of appeal and revision found in paragraphs 9 and 10 of the existing Circular No.9 of 2019.This exercise shall be completed within a period of six weeks from today."

5.The Government has issued Government Order in G.O.(Ms)No. 478, Revenue and Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022, in this regard. As per the above Government Order,the legal heirship certificate of the deceased, in case of



married persons, will include, father, mother, spouse, sons and daughters of the deceased and in case of issuance of legal heirship certificate in respect of unmarried persons, the legal heirs are the father, mother, brother and sister of the deceased person. The applicant should also produce the death certificate of the deceased and other documents such as Aadhaar Card, Voter ID Card, Passport, Bank Passbook/Postal Savings Book, Driving license, Pension Payment Order and any other similar document. It is also further stated that against the order of Tahsildar, an appeal petition can be filed to the respective Revenue Divisional Officer within a period of one year from the date of issuance/rejection of the application, as the case may be. Further, there is a gray area in the Government Order regarding legal heirs and it talks only about the classification of legal heirs and there is no clear-cut classification of the persons, who are the sisters and brothers of the deceased married or unmarried persons and that has to be decided by the authorities, as per the Hindu Law in force.

6. Accordingly, the second respondent is directed to consider the application submitted by the Petitioner on 20.5.2022 and pass appropriate orders based on the guidelines and further clarifications, if any, received from the Government and also in accordance with Hindu Law in force. The Petitioner is also directed to produce the relevant guidelines in this regard for issuance of Class-II legal heirship certificate, to the second respondent



to enable him to do the same, as directed above, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands disposed of. No costs.

28.11.2022

Index : Yes/No

Internet: Yes/No

vsn

To

1. The District Revenue Officer,
Tirunelveli Collectorate Campus,
Tirunelveli.

2. The Tahsildar,
Nanguneri Taluk,
Tirunelveli.



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V.BHAVANI SUBBAROYAN,J
vsn

ORDER MADE IN

W.P(MD)No.16710 of 2022

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