



W.P.(MD).No.21509 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21509 of 2022

K.Ammavasi

... Petitioner

vs.

1. The Sub Collector,
Office of Revenue Divisional Officer,
Periyakulam,
Theni District.
2. The Tahsildar,
Periyakulam Taluk,
Theni District.
3. The Branch Manager,
State Bank of India
Kullapuram Branch,
Varadaraj Nagar PO, Periyakulam Taluk,
Theni District – 625 562.

4. Mrs.M.Saranya

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 herein to forthwith issue Class-II legal heir certificate to the legal



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heirs of brothers of the deceased K.Veeranan, S/o.Karuthakannu Thevar, in accordance with Sections 8, 11 and Schedule attached therewith for Class-II heirs and consequently direct the third respondent herein to disburse the deposits standing in the name of deceased K.Veeranan, S/o.Karuthakannu Thevar, to the legal heirs of brothers of the deceased K.Veeranan, S/o.Karuthakannu Thevar.

For Petitioner	: Mr.K.Appadurai
For R1 & R2	: Mr.D.Gandhiraj Special Government Pleader
For R3	: Mr.C.Karthick Standing counsel

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to issue Class-II legal heir certificate to the legal heirs of brothers of the deceased K.Veeranan, S/o.Karuthakannu Thevar, in accordance with Sections 8, 11 and Schedule attached therewith for Class-II heirs and consequently direct the third respondent to disburse the deposits standing in the name of deceased K.Veeranan, S/o.Karuthakannu Thevar, to the legal heirs of brothers of the deceased K.Veeranan.



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2. By consent, the writ petition itself is taken up for final disposal.

3. The case of the petitioner is that his brother K.Veeranan died on 04.11.2021. His brother K.Veeranan married the fourth respondent in the year 2005. Subsequently, due to difference of opinion between the husband and wife, they mutually agreed to dissolve their marriage. Accordingly, they separated and both of them lived separately. Thereafter, the fourth respondent married one M.Muthupandi. But the petitioner's brother lived solely till his death on 04.11.2021, along with them. However, in the death certificate of the deceased brother K.Veeranan, the name of the fourth respondent was mentioned as wife. Taking advantage of the same, the respondents 1 and 2 have not issued the legal heir certificate to the petitioner. In the absence of Class II legal heir certificate, the third respondent has refused to disburse the deposits standing in the name of the deceased brother Veeranan. Hence, the present writ petition is filed.



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4. The Full Bench of this Court, in W.P.Nos.25247 of 2021 etc., batch (***P.Venkatachalam and others vs. The Tahsildar, Kumarapalayam Taluk and others***), had only given a recommendation regarding the issuance of legal heir certificate, which reads as follows:

“E.A legal heirship certificate issued by a Tahsildar cannot be equated to a succession certificate issued by a Court under Part X of the Indian Succession Act, 1925, in respect of the debt or securities. In this view of the matter, the High Court, in exercise of Article 226 of the Constitution of India, does not create any new mechanism as stated in the order of reference.

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 a deceased Hindu male under Section 8 of the Hindu Succession Act could be extended across the Board to all religions.



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G. Consequently, the Government of Tamil Nadu is directed to issue a fresh Government order in lieu of Circular No.9 of 2019 without the anomalies pointed out, supra, in particular the usage of the 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. In view of the above said findings of the Full Bench of this Court, this Court is not inclined to issue a writ of Mandamus and it is left open to the parties concerned to approach the appropriate forum, for obtaining proper succession certificate and get the amount deposited in the third respondent Bank. Accordingly, this Writ Petition is dismissed. No costs.

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akv

To

1. The Sub Collector,
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2. The Tahsildar,
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