



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23698 of 2022

V.M.Vellichamy

..Petitioner

Vs

1.The State, represented by
The Additional Chief Secretary/
Commissioner of Revenue Administration,
Government of Tamil Nadu,
Chennai.

2.The State, represented by
The District Collector,
Collectorate Campus,
Dindigul.

3.The State, represented by
The Tahsildar,
Office of the Tahsildar,
Oddanchatram Taluk,
Dindigul District.

4.The State, represented by
The Revenue Inspector,
Puliyurnatham,
Office of the Tahsildar,
Vedasandur Taluk,
Dindigul District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 26.08.2022 in Oo.Mo.No.4659/2022/E2, issued by the third respondent to conduct



proper enquiry and issue class-II legal heirship certificate of the Petitioner's deceased sister in law namely, Ammaniyammal declaring the Petitioner namely, V.M.Vellaichamy and his sisters namely Ponnuthai and Packiyam as Class-II legal heirs of the deceased Ammaniyammal, wife of Muthusamy.

For Petitioner :Mr.R.J.Karthick

For Respondents :Mr.D.Gandhiraj
1 to 4 Special Govt.Pleader

ORDER

The Petitioner has filed this Writ Petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 26.08.2022 in Oo.Mo.No.4659/2022/E2, issued by the third respondent to conduct proper enquiry and issue class-II legal heirship certificate of the Petitioner's deceased sister in law namely, Ammaniyammal declaring the Petitioner namely, V.M.Vellaichamy and his sisters namely Ponnuthai and Packiyam as Class-II legal heirs of the deceased Ammaniyammal, wife of Muthusamy.

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 is residing at the petition mentioned address and an agriculturist by profession.The Petitioner himself, his brother Muthusamy @ Thangavel, his sisters



Ponnuthai and Pacikyam are the legal heirs of his father. The Petitioner's mother predeceased his father. The Petitioner's brother Muthusamy @ Thangavel also died on 3.11.2003. After his demise the surviving legal heir of his brother is his sister in law namely Ammaniyammal. The Petitioner's brother and Ammaniyammal has no children and Ammaniyammal also died on 4.3.2020 intestate. The said Ammaniyammal owned a house property in their village and has bank accounts in various banks and she has not made any settlement of the property. As there is no surviving Class-I legal heir for the deceased sister in law Ammaniyammal, the Petitioner, his sisters namely Ponnuthai and Packiyam applied for Class II legal heirship Certificate to the third respondent, who in turn had forwarded the same to the fourth respondent. The fourth respondent submitted a report to the third respondent and passed the impugned order on 26.8.2022, stating that as there is no surviving Class I legal heir, the Petitioner is directed to approach the appropriate Court for necessary relief and hence, the Petitioner has come forward with the present Writ Petition.

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 persons, who has no legal heir of I-Class and that has to be decided by the authorities.

6.The authorities concerned shall seek for clarification from the Government regarding the guidelines and procedures in this regard and based on the said clarification, the third respondent is directed to consider the application already submitted by the Petitioner and pass appropriate orders based on the guidelines and further clarifications received from the Government and also in accordance with law, if so eligible. The Petitioner is also directed to produce the relevant portion from Hindu Succession Act/guidelines in this regard for issuance of Class-II legal heirship certificate, to the third 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.

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

27.10.2022

Index : Yes/No

Internet: Yes/No

vsn

To

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Chennai.
2. The District Collector,
Collectorate Campus,
Dindigul.
3. The Tahsildar,
Office of the Tahsildar,
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4. The Revenue Inspector,
Puliyurnatham,
Office of the Tahsildar,
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V.BHAVANI SUBBAROYAN,J
vsn

ORDER MADE IN

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