



W.P.(MD)No.26612 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.11.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.26612 of 2022

and

W.M.P.(MD)No.20814 of 2022

P.Jayaprakash

.. Petitioner

Versus

1.The District Collector,
Tenkasi District.

2.The Revenue Divisional Officer,
Tenkasi,
Tenkasi District.

3.The Tahsildar,
Taluk Office,
Tenkasi,
Tenkasi District.

4.Alex Chandra, D/o.Pushparathinam

5.Nesamani, D/o.Alex Chandra

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of rejection dated 20.11.2022, on the file of the third respondent relating to the legal heir application in TN-720221112518, dated 12.11.2022, quash the same as illegal and consequently, direct the third respondent to issue legal heir certificate to the effect that the petitioner is the legal heir of the deceased P.Mathialagan, S/o.Pushparathinam, who died on 31.05.2022 at Alwarkurichi, Tenkasi District, within a time limit that may be fixed by this Court.



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For Petitioner : Mr.G.Kannan
For Respondents 1 to 3 : Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of rejection dated 20.11.2022, on the file of the third respondent, relating to the legal heirship application in TN-720221112518, dated 12.11.2022, and consequently, direct the third respondent to issue legal heir certificate to the effect that the petitioner is the legal heir of the deceased P.Mathialagan, S/o.Pushparathinam, who died on 31.05.2022 at Alwarkurichi, Tenkasi District, within a time limit that may be fixed by this Court.

2. Heard Mr.G.Kannan, learned counsel appearing for the petitioner and Mrs.K.Christy Theboral, learned Additional Government Pleader, who takes notice for the respondents 1 to 3. By consent of the learned counsel appearing for the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that his father, namely, Pushparathinam and his mother, namely, Vadivammal had two sons. Both of them already



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passed away. The petitioner's brother namely, P.Mathialagan married one Sironmani. The said Sironmani, who has no issues, died on 14.05.2019, leaving behind the petitioner's brother as her only legal heir. The petitioner's brother also died on 31.05.2022. In the said circumstances, the petitioner applied along with requisite fees to the third respondent through E-Sevai Centre on 12.11.2022, requesting him to issue a legal heirship certificate to him as legal heir of the deceased. The third respondent, vide his proceedings dated 20.11.2022, rejected the petitioner's application stating that his brother's mother-in-law and the sister-in-law, who are arrayed as the respondents 4 and 5 herein, have given objection for issuing legal heirship certificate to him. The fourth respondent has given an objection for granting legal heirship certificate to the petitioner. The third respondent, without considering the Government Orders and the law governing the issuance of legal heirship certificate, rejected his application and directed him to approach the competent Court. Challenging the same, the petitioner is before this Court.

4. The Government, vide G.O.(Ms)No.478, Revenue and Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022, have issued general guidelines for issuance of legal heirship certificate. The petitioner, being the Hindu and his brother and the family members are all Hindus and therefore, the provisions of the Hindu Succession



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Act have to be invoked. As per the Hindu Succession Act, the petitioner, who being the brother of the said Mathialagan, is entitled for issuance of legal heirship certificate. The other persons, namely, the mother-in-law and the sister-in-law of the petitioner's brother are not entitled for the legal heirship certificate, as the petitioner is only the Class-II legal heir of his brother. The petitioner has already approached the authorities along with appropriate documents to show that he is the only legal heir for his deceased brother Mathialagan.

5. It is seen from the impugned order that without giving any notice and called for any explanation, authorities have passed the impugned order based on the objections made by the respondents 4 & 5 and therefore, the impugned order is liable to be set aside. The first respondents has considered the mere objection, wherein, the respondents 4 & 5 have not produced any documents to show what way they are related to the deceased.

6. As per the Hindu Succession Act, 1956 in the absence of Class I legal heirs, class II legal heirs are entitled to succeed the property. As per the Schedule Class II legal heirs are I. Father, II.(1) Son's daughter's son, (2) son's daughter's daughter, (3) brother, (4) sister. In the absence of above three persons, the brother will be immediate legal heir of the deceased person.



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Therefore, the petitioner herein is brother of the deceased person and he is “full blood” and also the next legal heir of the deceased and hence, he is entitled for succeeding the property of his brother as a class II legal heir.

7. It is seen from Definitions of Section 3 of the Hindu Succession Act, 1956 and the Schedule of the said Act, the petitioner is the immediate legal heirs of the deceased person and no third party can give any objection for issuance of legal heirship certificate to the petitioner, as they are only the mother-in-law and sister-in-law of the petitioner's brother. Therefore, the objections raised by the respondents 4 and 5 before the Tahsildar for issuing legal heirship certificate to the petitioner are to be overruled.

8. The respondents 4 & 5 are the mother-in-law of deceased and wife's sister of the deceased. The deceased had obtained legal heir certificate for his wife as the sole legal heir and the petitioner being the brother born through his mother and father is entitled to claim the legal heir certificates.

9. In view of the above, the impugned order of the third respondent, dated 20.11.2022, is set aside and the Writ Petition is allowed. The third respondent is directed to issue legal heirship certificate to the petitioner considering his application within a period of six weeks from the date of



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receipt of a copy of this order. No costs. Consequently, connected

Miscellaneous Petition is closed.

Index : Yes/No
smn2/am
To

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V.BHAVANI SUBBAROYAN, J.

smn2/am

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