



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1881 of 2017

R.Sardhar Batcha

... Petitioner

Vs

1.The District Collector,
Madurai - 625 020.

2.The Revenue Divisional Officer,
Madurai,
Madurai - 625 020.

3.The Tahsildar,
Madurai West Taluk,
70 feet Main Road,
New Ellis Nagar,
Madurai - 625 016.

4.Syed Abuthahir

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent's impugned order in Na.Ka.No.2975/2016/J dated 30.09.2016 signed on 03.10.2016 and quash the same as illegal and consequently, directing the respondents 2 and 3 to include the name of the petitioner and his wife Jagitha Begum in the legal heirs certificate issued by the third respondent in proceedings in D.Dis.No.15892/2013/C1 dated 25.07.2013.

For Petitioner : Mr.M.Mohamed Rafi

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate for R.1 to R.3

Mr.R.Murali for R.4

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2. The petitioner's daughter S.Parveenbanu was given in marriage to the fourth respondent on 03.01.2002. The petitioner's daughter passed away on 01.11.2012. The petitioner's daughter died issueless. The fourth respondent is said to have since remarried.



The petitioner approached the third respondent for issuance of legal heirship certificate. The second respondent by the impugned order, dated 30.09.2016 rejected the request of the petitioner. The second respondent has referred to Indian Succession Act. This rejection order is put to challenge in this writ petition.

WEB COPY

3. It is settled law that the parents of the deceased daughter are sharers entitled to inherit a portion of the estate. The second respondent without taking note of the relevant position of Mohammedan law has mechanically rejected the petitioner's request. The impugned communication is set aside. The third respondent is directed to issue a fresh legal heir certificate, in which, not only the fourth respondent but the parents of the deceased i.e., the petitioner and his wife will also be shown as legal heirs.

4. This writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

mga

To

1.The District Collector,
Madurai - 625 020.

2.The Revenue Divisional Officer,
Madurai,
Madurai - 625 020.

3.The Tahsildar,
Madurai West Taluk,
70 feet Main Road,
New Ellis Nagar,
Madurai - 625 016.

+1 CC to M/s.M.MOHAMED RAFI, Advocate (SR-24783[F] dated 09/06/2022)

+1 CC to M/s.R.MURALI, Advocate (SR-24760[F] dated 09/06/2022)

+1 CC to M/s.SPL.GP (SR-24865[F] dated 09/06/2022)

W.P. (MD)No.1881 of 2017

08.06.2022

RD(27.06.2022) 2P 7C