



W.P.No.6939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.6939 of 2023

B.Divakar

...Petitioner

Vs.

1. The District Collector,
Collectorate Offices,
Krishnagiri District.

2. The Tahsildhar,
Office of Tahsildar,
Kaveripattinam,
Krishnagiri District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order through website passed by the 2nd respondent proceedings dated 14.11.2022 and quash the same as null and void and consequently direct the 2nd respondent to issue legal heirship certificate of deceased Rajeshwari in favour of petitioner.

For Petitioner : Mr.M.Selvam
For Respondents : M/s.N.Senthil Selvi
Government Advocate



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ORDER

This writ petition has been filed seeking for issuance of a writ of Certiorarified mandamus to quash the impugned order passed by the second respondent vide proceedings dated 14.11.2022 and consequently direct the 2nd respondent to issue legal heirship certificate of deceased Rajeshwari in favour of petitioner.

2. Mr.M.Selvam, appears for learned counsel for the petitioner, M/s.N.Senthil Selvi, learned Government Advocate accepts notice for respondents. In view of the consent expressed by learned counsel on either side, this writ petition is taken up for final disposal.

3. It is the case of the petitioner that his grandfather and grandmother had two daughters namely Dhanalakshmi i.e., petitioner's mother and elder daughter namely Rajeshwari. The petitioner claims that the said Rajeshwari, who is the petitioner's maternal aunt, adopted him from his natural parents as her son after signing the adoption deed and also declared the petitioner as her legal heir. After the demise of said Rajeshwari, the petitioner made a representation dated 11.11.2022, to the respondents to issue legal heirship



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certificate of the deceased in favour of the petitioner along with a copy of her death certificate. However, the same was rejected by the second respondent on 14.11.2022 citing the fact that there were objections from the deceased Rajeshwari's brother Janardhanan. Challenging, the same the present writ petition has been filed.

4. Learned counsel appearing for the petitioner submitted that the petitioner applied for issuance of Class II Legal heirship Certificate before the Revenue officials for the said Rajeshwari/petitioner's maternal aunt in his favour, by attaching the necessary documents. He further submitted that, when there is no rival claim, it is the duty of the respondents to consider the said application and issue Class II legal heirship certificate in favour of the petitioner. However, the second respondent has rejected the same, vide impugned order dated 14.11.2022, which is not sustainable. Hence, he prayed for appropriate orders.

5. Learned Government Advocate appearing for the respondents submitted that pursuant to the order of the Hon'ble Full Bench of this Court,



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a Government Order in G.O.Ms.No.478, Revenue & Disaster Management Department, dated 29.09.2022 was issued and as per the said Government Order, the Tahsildar is not the competent authority to issue Legal heirship certificate to the petitioner. Therefore, making application before the respondent/Tahsildar for issuance of legal heirship certificate is not sustainable. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. The petitioner claims to be the Class II Legal heir of the deceased Rajeshwari, who, it is claimed, is his maternal aunt. However, as rightly pointed out by the learned Government Advocate, the Government Order in G.O.Ms.No.478 Revenue & Disaster Management Department, dated 29.09.2022, issued pursuant to the order of the Hon'ble Full Bench of this Court has clearly stated that, Tahsildar is not the competent authority to issue Class II Legal heirship certificate and the petitioner has to approach only the competent Civil Court.



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WEB COPY 8. In view of above facts, the prayer sought for by the petitioner in this Writ petition cannot be acceded to. However, the petitioner is at liberty to approach the competent civil court to workout his remedy in the manner known to law.

9. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

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(1/2)

RAP
Index : Yes/No
Speaking order : Yes/No



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RAP

To

1. The District Collector,
Collectorate Offices,
Krishnagiri District.
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Office of Tahsildar,
Kaveripattinam,
Krishnagiri District.

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W.M.P.No.7038 of 2023

in

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M.DHANDAPANI,J.

Dispensed with for the present.

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RAP