



W.P.No.7425 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7425 of 2023

Mala

... Petitioner

Vs.

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to conduct enquiry and to issue II Class legal heir certificate of deceased Jothi W/o.Swamy died on 23.05.2021 last resided at No.3, West Madaveethi, Thirumazisai, Thiruvallur.

For Petitioner : M/s.T.Gnana Banu

For Respondents : Mr.K.M.D.Muhilan

Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance



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Writ of Mandamus directing the second respondent to conduct enquiry and to issue II Class legal heir certificate of deceased Jothi W/o.Swamy died on 23.05.2021 last resided at No.3, West Madaveethi, Thirumazisai, Thiruvallur.

2.The case of the petitioner is that the petitioner's elder sister Jothi married one Swamy and they have no children. The said Swamy died on 23.05.2004 and the said Jothi died on 23.05.2021. Thereafter, the petitioner made online representation to the second respondent to declare herself and her brother and sister as Class II legal heirs of the deceased Jothi, however, the same was rejected by the second respondent. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that the Madurai Bench of this Court in W.P.(MD) No.22184 of 2021 dated 12.01.2022 has held that 'if it is an issue of claiming legal heirship certificate for a deceased brother and when there are no rival claimants, make necessary enquiry and proceed to issue legal heirship certificate'. In the present case, there is no Class I legal heir



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to the deceased person. Hence, this Court may direct the second respondent to conduct enquiry and to issue Class II legal heir certificate of deceased Jothi.

4.The learned Additional Government Pleader appearing for the respondents submitted that there were conflict views with regard to the issuance of Class II legal heirship certificate and hence the matter was referred to the Hon'ble Full Bench of this Court and pursuant to the order of the Hon'ble Full Bench of this Court dated 17.06.2022 and 12.08.2022 made in W.P.Nos.25247 of 2021 etc., batch, the Government issued G.O.(Ms) No.478, Revenue and Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022, as per which, in the case of married person, only father, mother, spouse, sons and daughters of the deceased are entitled for legal heirship certificate and hence the petitioner is not entitled for Class II legal heirship certificate and the second respondent have no power to decide the issue.

5.Heard the arguments advanced on either side and perused the materials available on record.



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6.The facts in the present case is not in dispute. The petitioner claim that the petitioner's elder sister Jothi married one Swamy and they have no children. The said Swamy died on 23.05.2004 and the said Jothi died on 23.05.2021. Thereafter, the petitioner made online representation to the second respondent to declare herself and her brother and sister as Class II legal heirs of the deceased Jothi, however, the same was rejected by the second respondent.

7.Perusal of G.O.(Ms) No.478, dated 29.09.2022, reveals that in the case of married person, only father, mother, spouse, sons and daughters of the deceased are entitled for legal heirship certificate. The petitioner is the sister of the deceased and the relationship is not mentioned in the Government Order. Hence, the online representation made to the second respondent is not sustainable one and the same has been rightly rejected by the second respondent.

8.In view of the above, this writ petition is dismissed. However, liberty is granted to the petitioner to approach the competent civil Court for appropriate remedy. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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To

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Thiruvallur.
- 2.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.



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M.DHANDAPANI,J.
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