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W.P.No.20898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.20898 of 2023

K.V.S.Subha

... Petitioner

Vs.

1.The District Collector
Thiruvallur, Thiruvallur District

2.The Sub-Collector
Thiruvallur, Thiruvallur District

3.The Revenue Divisional Officer
Thiruvallur, Thiruvallur District

4.The Tahsildar
Thiruvallur Taluk, Thiruvallur District

5.K.V.S.Nagarajan

6.K.V.S.Kumar

7.K.V.S.Kuberan

8.K.V.S.Jagadish

9.K.V.S.Kamal

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent, the Revenue Divisional Officer, by his proceeding in Na.Ka.1534/2022 /A4 dated 11.04.2023 and quash the same and consequently, direct the 3rd respondent to rectify the error committed by the 4th respondent, Tahsildar and to cancel the legal heir certificates in PA.MU number 6208/93



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dated 8/7/1993 and include the petitioner name in the legal heir certificate of petitioner's late father K.V.Subramanian within the time frame fixed by this Court.

For Petitioner : Mr.E.Manoharan
for Mr.E.Balamurugan

For Respondents : Mr.C.Kathiravan
Special Government Pleader for R1 to R4

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner claims herself to be the daughter of Late K.V.Subramaniam and she was born through his third wife. The petitioner's father died on 13.06.1993. At the relevant time the petitioner was barely four years old. Subsequently, the Tahsildhar issued a legal heir certificate to other heirs of K.V.Subramaniam but he did not include her name. On coming to know the same, the petitioner approached 3rd respondent, R.D.O, with her application dated 11.05.2022. with a request for amending the legal heir certificate earlier issued and to issue a fresh legal heir certificate including her name. The 3rd respondent appeared to have directed the 4th respondent to cause an enquiry, and the Tahsildar vide proceeding dated 27.01.2022 has entered a finding that as per his enquiry, the petitioner is one of the daughters of late K.V.Subramaniam. However, the R.D.O chose to reject the petitioner's



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application on the ground that the other heirs of late K.V.Subramaniam, more particularly the respondents 5 to 9 did not appear despite notice given to them and hence he refused to consider her plea for an amendment of the legal heir certificate earlier issued.

3.Learned counsel for the petitioner submitted that non appearance of other heirs of late K.V.Subramaniam cannot be a ground for denying the petitioner her legal heir certificate, if she is otherwise entitled to, when he is required to apply his mind to the facts and take a decision on the facts available.

4.Mr.C.Kathiravan, the learned Special Government Pleader has taken notice for the respondents 1 to 4.

5.Arguing for respondents 1 to 4 and on instructions, the learned Special Government Pleader submitted that against the order of the R.D.O. a revision provision is available to the D.R.O.

6.This Court finds some merit and force in the submissions of the learned counsel for the petitioner. Irrespective of the legal consequence or defect of the legal heir certificate, in the face of the judgment of this Court in



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W.P.Nos.25247 of 2021 dated 17.06.2022 by the Full Bench of this Court, the

fact remains that the legal heir certificate has its relevance in several transactions which a citizen may have with the State and its instrumentalities.

The Full Court has held that a legal heir certificate may not be conclusive as to the legal status of any person as per the personal law governing the person and may be relevant only to establish the relationship. Therefore, it could have been appropriate if the Revenue Divisional Officer had considered this aspect on this perspective. What if the private respondents, the other heirs of late K.V.Subramaniam never choose to appear? Does it mean that the petitioner would never be entitled to a legal heir certificate? To grant or not to grant legal heir certificate should be decided by the authorities, and it is not a concession made by others. It may be that, failure of the private respondents to appear during enquiry by the R.D.O. may have caused difficulties for him to decide a certain aspect conclusively, but the absence does not imply that he can refuse to decide the issue. After all, irrespective of how he decides, his decision is still will not be conclusive in terms of the decision referred to above.

7.This Court now directs the petitioner to approach the D.R.O, who may now bestow requisite care, appreciate not only G.O.(Ms).No.478, Revenue & Disaster Management, Revenue Administration Wing RA-3(2) Section dated



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29.09.2022 but also paragraph 65 of the judgment of the Full Court and also what has been herein above observed by this Court.

8.The petitioner is directed to present her revision within a period of two (2) weeks from the date of receipt of a copy of this order, and the 2nd respondent is required to dispose of the matter within the next twelve (12) weeks.

9.This writ petition stands disposed of accordingly. No costs.

20.07.2023

kas

Index : Yes / No

Neutral citation : yes/no

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