



WEB COPY



W.P.No.24727 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.09.2023

Pronounced on : 22.12.2023

CORAM : JUSTICE N.SESHASAYEE

W.P. No.24727 of 2023

Shanthi

... Petitioner

Vs.

1.The Tahsildar
Mambalam Taluk
K.K.Nagar
Chennai - 600 078.

2.The Principal Secretary
Revenue and Disaster Management
Fort St.George
Chennai - 600 009.

... Respondents

[R2 *suo motu* impleaded vide order dated
04.09.2023 in W.P.No.24727 of 2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus, to call for the records of the
respondent in OO.Mu.EE.1/1207/2022 dated 30.09.2022 and quash the same



W.P.No.24727 of 2023

and consequently direct the respondent to issue legal heir certificate to the petitioner for the death of S.Komala.

For Petitioner : Mr.M.Raja

For Respondents : Mr.M.Bindran
Additional Govt Pleader [R1, R2]

ORDER

The petitioner and her sister Komala are the children of certain Vijayaraghavalu, and they both got married. Her sister had no issue, out of her wedlock and her husband predeceased her. The petitioner's sister Komala is also stated to have died on 08.07.2010. Claiming herself to be the Class-II legal heir of Komala, on 12.07.2021 the petitioner had applied for a legal heir certificate before the respondent. The respondent however vide his proceedings dated 30.09.2022, has rejected her application, citing Circular No.11/2017 dated 09.08.2017 of the Commissioner of Revenue Administration. This is now under challenge.

2. In the counter affidavit filed, the first respondent-Tahsildar essentially relied on the law declared by the Full Bench of this Court in



W.P.No.24727 of 2023

P.Venkatachalam Vs Tahsildar, Kumarapalayam Taluk, Namakkal

District [2022(4) CTC 1].

3. Heard both sides. At the outset, it must be stated that the Tahsildar is blissfully unaware about all that transpired, subsequent to the Circular No.11/2017 dated 09.08.2017, issued by the Principal Secretary, Commissioner of Revenue Administration. This circular was subsequently replaced by Circular No.9/2019 dated 24.09.2019. And when the Tahsildar concerned passed the impugned proceedings, the judgment of the Full Bench in ***P.Venkatachalam case***, has already been pronounced, and prior to the date of impugned proceedings, the Government has come out with G.O.(Ms) No.478, Revenue & Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022. This circular does not provide for issuing legal heir certificate beyond the category of persons for whom it is intended, and it does not cover Class-II heirs. In its judgment, the Full Bench has indicated that the Tahsildar is bound by the circular issued. It also proceeds to say that the limited ground under which the mandamus may lie only when the Tahsildar does not decide the issue in terms of the G.O., applicable. However, what should be the ambit of the government order must be decided by the Government, and this Court can at the best suggest



W.P.No.24727 of 2023

to the Government, may the ambit of G.O.(Ms) No.478 slightly broad based.

WEB COPY

4. It is not adequately known the purpose for which the petitioner had applied for the legal heir certificate. Here, if the intent of the petitioner is for succeeding to the estate of her deceased sister Komala, then in terms of Section 15 of the Hindu Succession Act, the heirs may vary, depending on how the deceased female Hindu has acquired the property. That exercise cannot be undertaken by the Tahsildar.

5. In fitness of things, this Court does not consider that notwithstanding the fact that the Tahsildar had relied on a wrong circular, yet it has no adequate enough reasons to interfere with the conclusion. However, the petitioner may apply to the Tahsildar for a relationship certificate, and as and when such application is filed, the Tahsildar may decide it on merits, after holding an enquiry. It is underscored that any such certificate may not by itself be adequate enough to clothe the petitioner the right to the properties of her sister Komala, as it would be governed by Personal Law of the parties.

6. Subject to the observations hereinabove made in the last preceeding paragraph, the petition is disposed of. No costs



WEB COPY



W.P.No.24727 of 2023

22.12.2023

Index : Yes / No
Internet : Yes / No
Speaking order / Non-speaking order

ds

To:

- 1.The Tahsildar
Mambalam Taluk
K.K.Nagar
Chennai - 600 078.
- 2.The Principal Secretary
Revenue and Disaster Management
Fort St.George
Chennai - 600 009.



WEB COPY



W.P.No.24727 of 2023

N.SESHASAYEE.J.,

ds

Pre-delivery order in
W.P.No.24727 of 2023

22.12.2023