



WEB COPY



W.P.No.23982 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.23982 of 2023
and W.M.P.No.23486 of 2023

S.Vasudevan

... Petitioner

Vs.

The Tahsildar,
Perambur Taluk,
Perambur,
Chennai-600 011

... Respondent

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in E2/949/2023, dated 25.04.2023 and quash the same as illegal, unlawful, ultravires and consequently direct the respondent to issue Class-II legal heirship certificate in favour of the petitioner, S.Vasudevan arising out of death of his sister, S.Vaijayanthimala, wife of Late P.Sudararajan who died intestate on 27.04.2019, within the time frame to be stipulated by this Court.

For Petitioner : Mr.T.S.Rajamohan



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For Respondent : Mr.S.J.Mohamed Sathik
Government Advocate

ORDER

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

2.The petitioner has made an online application for obtaining a legal heir certificate of his deceased sister one S.Vaijayanthimala and the same is pending.

3.Mr.S.J.Mohamed Sathik, the learned Government Advocate takes notice for the respondent, and informs the Court that based on the direction of this Court, the respondent has come out with G.O.(Ms).No.478, Revenue and Disaster Management, Revenue Administration Wing RA-3(2) Section, dated 29.09.2022, which has provided guidelines for issuance of legal heir certificate, and it does not take into account Class-II heirs.



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4.As per the said G.O., this Court is informed that only the father, mother and son of the deceased are eligible for obtaining a legal heir certificate in case of a married person, and in the case of an unmarried person, the parents of the deceased and also his brothers and sisters would be entitled to a legal heir certificate.

5.Learned counsel for the petitioner submitted that the said G.O., is flawed for the reason that it overlooks the case where a person is married and died a widower or a widow, without any issues. If such person is a male, and if he has no parents living on the date of his death, one of his Class-II heirs has power under the Hindu Succession Act, 1956, then necessarily his siblings namely the brothers and sisters would be his Class-II heirs.

6.*Prima facie*, this Court considers that the G.O., does not appear to have taken into account Schedule II of the Hindu Succession Act, 1956 in framing the G.O.



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N.SESHASAYEE, J.

Anu

7.The Government is required to spend some time as to the correctness of the G.O., in the light of what the personal law of the country provides in this regard, and requires to tweak in the said G.O., dated 29.09.2022. For the present, the respondent is directed to dispose of the petitioner's representation dated 25.04.2023 within a period of eight (8) weeks from the date of receipt of an online copy or the date on which the order is hosted in the official website, whichever is earlier.

8.This writ petition is accordingly disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

18.08.2023

Anu

Index : Yes / No

Neutral citation : yes/no

To

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Perambur,
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