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W.P.No.25534 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.25534 of 2023

K.V.Indira

... Petitioner

Vs.

1.The District Collector
M.Singaravelar Maligai
Rajaji Salai, George Town
Chennai - 600 001.

2.The Tahsildar
Mambalam Taluk
K.K.Nagar
Chennai District.

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

... Respondents

[R3 *suo motu* impleaded vide order dated
04.09.2023 in W.P.No.25844 of 2023]



W.P.No.25534 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to issue legal heirship certificate, based on the petitioner's representation dated 20.06.2023 within a time frame fixed by this Court.

For Petitioner : Mr.S.Sathya Chandran

For Respondents : Mr.G.Ameedius
Government Pleader [R1 to R3]

ORDER

Here, the petitioner claims herself to be the legal heir of her only sister Premalatha, who died without any issues out of her wedlock with a certain Sivadasan. Sadasivan had predeceased Premalata, and that they owned a property. According to the petitioner, she attempted to apply online for a legal heir certificate, she could not succeed, as the portal as designed did not to provide for it. In particular, the web portal was designed in accordance with G.O.(Ms) No.478, in terms of which, where the deceased is married, only his/her parents, spouse, children alone can apply for a legal heir certificate, and only in case the deceased is unmarried, besides his/her parents, brothers and sisters too can apply. The petitioner has submitted a detailed representation to the first respondent on 22.06.2023, but no



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response. Hence, the petitioner is before this Court seeking a mandamus to dispose of her representation.

2. Heard both sides. The judgment of the Full Bench of this Court in ***P.Venkatachalam Vs Tahsildar, Kumarapalayam Taluk, Namakkal District*** [2022 (4) CTC 1] makes it clear that the Tahsildar is bound by a circular or any executive order vis-a-vis the issuance of legal heir certificate. It is also underscored that it is not conclusive proof of what it says vis-a-vis the heirship. Turning to the complaint of the petitioner that the web portal does not provide for making an application for legal heirship certificate is concerned, there are two aspects which she may have to encounter. They are :

- (a) There is no inherent right to seek a legal heir certificate except to the extent it is provided by the Executive Order. Therefore, when the Government comes out with any such Executive Order, its ambit must be understood from the very text of the order. And the right of an applicant for legal heir certificate cannot travel beyond what the Government Order stipulates.
- (b) The affidavit indicates that her deceased sister and her husband



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possessed of certain properties.

Now if the intent behind applying for a legal heir certificate is to enable the petitioner herein for succeeding to the estate of her sister as her heir, then she must fall within Sec.15 of the Hindu Succession Act. Here, it must be underscored that the right of succession to the estate depends on mode of acquisition of property by such female Hindu. These are all matters, ultimately may have to be decided by a Civil Court and cannot be decided by a Tahsildar.

3. Given the facts and circumstances of this case, the Court at the best can direct the petitioner to approach the Tahsildar for issuance of relationship certificate, if she is so interested, but it cannot issue any direction for issuance of a legal heir certificate.

4. The petition is accordingly dismissed. No costs.

22.12.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order
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N.SESHASAYEE.J.,

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Pre-delivery order in
W.P.No.25534 of 2023

22.12.2023