



W.P. No. 28022 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.09.2023

Pronounced on : 22.12.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.28022 of 2023

S.C.Shankar

... Petitioner

Vs.

1.The Collector
O/o. Collectorate
Chennai.

2.The Tahsildar
Purasawalkam Taluk
Raja Muthiah Road
Chennai - 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 01.08.2023, and direct the Tahsildar Purasawalkam Taluk to issue the petitioner the legal heir certificate in respect of the death of his sister Soori Chetty Indrani.

For Petitioner : Mr.G.Sasee Devi

For Respondents : Mr.M.Bindran
Additional Government Pleader



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ORDER

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The case of the petitioner is that his great grandmother owned a property at Sowcarpet, and that after her demise, the property came to the hands of his father Chandriah, who had relinquished his right over the property in favour of the petitioner. The petitioner had one sister named Indirani, and at the time of her marriage, the petitioner had settled the said property in favour of his sister Indirani, and that the said Indirani and her husband were in peaceful possession and enjoyment of the property. However, the marriage of Indirani ran into rough weather and she divorced her husband and was living separately in the said property, and that she had no issues out of her wedlock.

2. Be that as it may, on 08.04.2023, Indirani passed away, leaving behind the petitioner as the Class-II heir. The petitioner being the sole legal heir of the deceased Indirani had approached the Tahsildar, Purasawalkam for legal heir certificate, in order to transfer and mutate the said property in his favour. The petitioner in this case relied on Section 15 of the Hindu Succession Act, and submitted that the source through which Indirani inherited the property is the settlement executed by the petitioner. His



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contention is that there is no online portal available on E-Sevai

website for applying Class-II legal heirship certificate. Therefore, the petitioner approached the Tahsildar for the said purpose with his representation dated 01.08.2023, but his efforts are in vain. Hence, he is before this Court seeking a mandamus to direct the Tahsildar, Purasawalkam Taluk, to issue the legal heir certificate.

3. Heard both sides. The petitioner's right to seek a legal heir certificate is governed exclusively by G.O.(Ms) No.478 Revenue & Disaster Management, Revenue Administration Wing, RA-3(2) Section, dated 29.09.2022. It sets a periphery as to category of persons who are entitled to get a legal heir certificate. This does not *ipso facto* mean that those who do not fall within the category are not the heirs as per the Personal Laws. All it means is that the Tahsildar is not authorised to issue a legal heir certificate for those category of persons who fall outside the purview of the said G.O., This view emanates from the decision of the Full Bench of this Court in ***P.Venkatachalam Vs Tahsildar, Kumarapalayam Taluk, Namakkal District*** [2022 (4) CTC 1].

4. In view of the same, the Tahsildar cannot be directed to do that which



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he or she is not authorised to do under the aforesaid government order.

The petitioner however may be issued a relationship certificate by the Tahsildar. This, the Tahsildar can issue on the present application of the petitioner. So far as establishing his title to the property of the deceased is concerned, it is governed by the Personal Laws, and the petitioner may have to approach the appropriate Civil Court.

5.The writ petition is disposed of accordingly. No costs.

22.12.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

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To:

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Chennai.

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N.SESHASAYEE.J.,

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Pre-delivery order in
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22.12.2023