



WEB COPY

W.P.No.339 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.339 of 2024

Anbu.K

... Petitioner

Vs.

The Tahsildar,
Mylapore Taluk,
Bishop Garden,
46, Greenways Road,
Raja Annamalai Puram,
Chennai

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to consider the application dated 30.10.2023 submitted by the petitioner to issue the Legal Heir Certificate with regard to their deceased brother Late Mr.K.Radhakrishnan.

For Petitioner

: Ms.R.Nandhini

For Respondent

: Mr.U.Baranidharan
Additional Government Pleader



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ORDER

The writ of Mandamus has been instituted to direct the respondent to consider the application dated 30.10.2023 submitted by the petitioner to issue the Legal Heir Certificate with regard to their deceased brother Late Mr.K.Radhakrishnan.

2. The petitioner states that his brother Mr.K.Radhakrishnan died issueless on 16.05.2021 due to various ailments. He was married to one Mrs.Leelavathy, who also died on 16.05.2021. The deceased Mr.K.Radhakrishnan and the sister-in-law of the petitioner Mrs.Leelavathy do not have any issues. Therefore, the petitioner and his brother and sisters are Class II legal heir of Late Mr.K.Radhakrishnan. Accordingly, an application was submitted seeking legal heirship certificate. Since the authorities have not considered the application, the present writ petition came to be instituted.

3. Ms.R.Nandhini, learned counsel for the petitioner would submit that there is no impediment for the Revenue Authorities to issue Class II legal heirship certificate, since the deceased brother Mr.K.Radhakrishnan has no



other issues and his wife also died, the petitioner is entitled for legal heirship certificate as applied. Thus, a direction is to be issued to grant legal heirship certificate.

4. Mr.U.Baranidharan, learned Additional Government Pleader appearing on behalf of the respondent would oppose the contention by stating that the application submitted by the petitioner was rejected by the respondent in proceedings dated 01.02.2024. Pursuant to the Full Bench Judgment of the High Court in order dated 17.06.2022 and 12.08.2022, the Government of Tamil Nadu issued a fresh order in respect of classification of Class II legal heirs under the Hindu Succession Act, 1956. The Tamil Nadu Government has issued a fresh guidelines in G.O.Ms.No.478, Revenue and Disaster Management Department dated 29.09.2022 to issued Class II legal heirs certificate to brother and sister of the deceased only if the deceased is unmarried.

5. Whereas in the present case, the deceased Mr.K.Radhakrishnan was married at the time of his death. Hence the application submitted by the petitioner could not be considered by the respondents. The Government has



issued another order in G.O.Ms.No.110, Revenue and Disaster Management Department dated 13.03.2024, wherein further guidelines have been issued as follows:

“The State Government has issued fresh guidelines and procedures for issuance of legal heir certificate overriding the earlier order by taking into account Class II of the Hindu Succession Act of 1956.

The Commissioner of Revenue Administration revised the order during March 2024. As per the amendment, in case of death of a married person, spouse(s) of the deceased, legal heir certificate will be provided to more than one spouse, if permissible under relevant personal law, the children or legally adopted children and parents of the deceased.

Similarly, in case of death of an unmarried person, parents and siblings of the deceased are eligible for the certificate. If both spouses had died without children, the certificate could be provided to parents and siblings of the deceased.

In the case of death of remarried person after the demise of the legally wedded wife or after divorce granted by a competent court, children of



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the pre-deceased or legally divorced wife, existing spouse(s) of the deceased, parents, children and legally adopted children would be issued the certificate.”

6. In view of the fact that the brother of the petitioner deceased Mr.K.Radhakrishnan was a married person at the time of death, the Revenue Authorities cannot issue Class II legal heirship certificate. In such circumstances, the petitioner has to approach the Competent Civil Court of Law for the purpose of redressal of his grievances in the manner known to law.

7. With these observations, this Writ Petition stands dismissed. No costs.

23.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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