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W.P.No.5373 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5373 of 2024

P.Poobalan

... Petitioner

Vs.

The Tahsildar ,
Pallavaram Taluk,
Chengalpattu District.

... Respondent

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records on the file of the respondent rejected the legal heirs certificate in the impugned order vide in his proceedings O.Mu.No. 5585/2023-A1 dated 29.12.2023 and quash the same as illegal, arbitrary and consequently direct the respondent to issue the legal heirs certificate to the petitioner and his brother namely Boopathi of petitioner deceased grandmother namely K.Madathi within the time limit that may be stipulated by this Honourable Court.

For Petitioner : Mr.K.Sankar

For Respondent : Mr.U.Baranidharan,
Additional Government Pleader



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ORDER

The order of rejection, rejecting the application of the petitioner, submitted to issue Legal Heir Certificate of the deceased grandmother of the petitioner, is under challenge in the present writ petition.

2. The petitioner states that his mother predeceased his grandmother, therefore, the mother of the petitioner has not applied for a Legal Heir Certificate. Thus, the petitioner submitted an application for issuance of Legal Heir Certificate to the respondent of his grandmother. The respondent rejected the same on the ground that he cannot issue a Legal Heir Certificate of the grandmother of the petitioner.

3. Regarding the issuance of the Legal Heir Certificate, new guidelines are issued by the Government pursuant to the judgement of the High Court of Madras in a batch of writ petitions. Accordingly, the Government issued G.O.Ms.No.478, Revenue and Disaster Management, Revenue Administration Wing, dated 29.09.2022. An amendment order was issued in G.O.Ms.No.110, Revenue and Disaster Management, Revenue Administration Wing, dated 13.03.2024.



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4. As per the above guidelines issued by the Government for issuance of Legal Heir Certificate, the petitioner cannot seek Legal Heir Certificate for his deceased grandmother. The Revenue Authorities are competent to issue Legal Heir Certificate for the following categories :

“7. In the reference seventh read above, the Additional Chief Secretary/Commissioner of Revenue Administration has sent his report to issue guidelines for Legal Heir Certificate as follows:

I. Dispensing the classification of heirs as Class I and Class II. II. Legal Heir Certificate henceforth may be issued to any family members of the deceased and it should be issued by including only the family members of the deceased as provided hereunder, along with their living status, irrespective of the deceased person's Religion, Gender.

Legal Heirship Certificate of the deceased (in case of married person) will Include the following members:-

- 1. Father of Deceased*
- 2. Mother of Deceased*
- 3. Spouse of Deceased*
- 4. Sons of Deceased*
- 5. Daughters of Deceased*



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III. Legal Heir Certificate of the deceased (in case of unmarried persons) will include the following persons:

- 1. Father of deceased*
- 2. Mother of deceased*
- 3. Brothers of deceased*
- 4. Sisters of deceased*

IV. Further, it is also recommended to incorporate the following appeal provisions:

S.No	Existing Provisions	Proposed Provisions
1.	<u>Appeal Provision:</u> If any disputes arise on the Legal Heir Certificate issued, an appeal petition shall be filed to the respective Revenue Divisional Officer within a period of one year from the date of issuance of the certificate.	<u>Appeal Provision:</u> Existing provision may be continued
2.	<u>Power of Revision:</u> The power of revision lies with the District Collector and Revision petition shall be filed by the applicant within a period of 3 years from the date of passing of the appeal order.	<u>Power of Revision:</u> The power of revision lies with the District Revenue Officer and Revision petition shall be filed with In a period of 3 years from the date of passing of the appeal order.

5. When the Government has not delegated the powers to issue Legal Heir Certificate of the grandmother to the petitioner, such a power cannot be conferred by the High Court in exercise of the powers of Judicial Review under Article 226 of the Constitution of India. Thus, the



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petitioner has to approach the competent Civil Court of law for the purpose of securing Legal Heir Certificate in the manner known to law.

6. With these liberties, the writ petition stands dismissed. However, there shall be no order as to costs.

05.04.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

The Tahsildar,
Pallavaram Taluk,
Chengalpattu District.



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S.M.SUBRAMANIAM. J.,

(sha)

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