



W.P.No.6991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.6991 of 2024

J.Princy Maria Fabiyola

... Petitioner

Vs.

1. Revenue Divisional Officer,
Coimbatore (North),
Kavundampalayam, Coimbatore,
Coimbatore District.

2. The Tahsildar, Taluk Office,
Coimbatore (North),
Coimbatore, Coimbatore District.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in the undated order passed in Application No.TN720240110127 as unreasonable, unjust, illegal and quash the same and consequently direct the second respondent to issue legalheirship certificate of the petitioner's deceased husband Mr.George Emmanuvel, who died on 09.10.2023, in favour of the petitioner J.Princy Maria Fabiyola and her minor son G.Jovan Benaiah, within a time stipulated by this Court.



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For Petitioner : Mr.K.Subbu Ranga Bharathi
For Respondents : Mr.R.Neelakandan, Addl.Adv.General
Assisted by Mr.S.Balamurugan,
Government Advocate

ORDER

This writ petition is filed challenging the order passed by the respondent rejecting the application filed by the petitioner seeking issuance of legal heirs certificate on the death of her husband George Emmanuvel.

2. It is the case of the petitioner that she married George Emmanuvel on 22.06.2012 and out of wedlock, a son G.Jovan Benaiah was born to them on 19.04.2013. The petitioner and her husband were Indian Christian governed by Indian Succession Act. The petitioner's husband George Emmanuvel died on 09.10.2023 leaving behind the petitioner and her minor son G.Jovan Benaiah as legal representatives entitled to succeed his estate. The petitioner filed an application 10.01.2024 before the second respondent seeking issuance of legal heirs certificate and the same was rejected by the respondents on the



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ground that the legal heirs of the deceased were not identifiable.

Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner, by taking this court to Section 33(a) of the Indian Succession Act, submits that after death of petitioner's husband, the petitioner and her son are the only legal heirs of the deceased and the father in law of the petitioner is not entitled to any share in the estate of the deceased.

Section 33 (a) of the Indian Succession Act reads as follows.

33. Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred- where the intestate has left a widow -

(a) if he has also left any lineal descendants, one third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained.

4. A perusal of the above said Section would make it clear that where a male intestate dies leaving behind his widow and lineal descendants, one third of his estate will go to his widow and the



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remaining shall go to his lineal descendants. Therefore, the father and mother of the deceased is not entitled to any share in the property. Similar view was expressed by this Court in W.P.No.26544 of 2022, dated 05.12.2022, which reads as follows.

5. This action of the second respondent cannot be sustained, in view of the provisions of Indian Succession Act. Section 33 of the Indian Succession Act enumerates the legal representatives. When the deceased person leave behind the widow and lineal descendants, the widow and lineal descendants will alone become the legal heir of the deceased under the Scheme of the Indian Succession Act. Therefore, the legal heirship certificate can be issued only to those persons who are recognized as legal heirs under the personal law applicable to a person. Neither the Government Order issued under G.O.Ms.No.478 dated 29.09.2022 nor the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can alter the legal heirs prescribed by the Indian Succession Act.

5. Mr.R.Neelakandan, learned Additional Advocate General, on written instruction from the second respondent in Ref.No.1310/2024/A6, dated 26.03.2024, would submit that during enquiry, the petitioner's father-in-law was found to be alive and hence, the petitioner was directed to file fresh application by including the name of her father in law. Since the petitioner failed to include the name of



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her father in law, her application was rejected.

6. In the written instruction, it is also stated by the second respondent that the petitioner's father in law Mr.Vincent has submitted an affidavit expressing his no objection to issue legal heirs certificate to the petitioner, mentioning the names of the petitioner and her son as the legal heirs of the deceased.

7. The statement made by the learned Additional Advocate General is recorded.

8. In view of Section 33(a) of the Indian Succession Act, only the petitioner and her son are entitled to succeed to the estate of the deceased George Immanuvel and the petitioner's father in law is not entitled to any claim in the estate of the deceased . Further, the father in law of the petitioner also filed application before the second respondent expressing his no objection for issuance of legal heirs certificate to the petitioner mentioning the name of the petitioner and her son.



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9. In such circumstances, the impugned order passed by the second respondent is set aside and the second respondent is directed to issue notice to the father in law of the petitioner Mr.Vincent and after hearing him, issue legal heirs certificate to the petitioner, in accordance with law in the light of Section 33(a) of the Indian Succession Act.

10. Accordingly, this writ petition is allowed. There shall be no order as to costs.

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(2/2)

Index:Yes/No
Internet:Yes/No
mst

To

1. Revenue Divisional Officer,
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2. The Tahsildar, Taluk Office,
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S.SOUNTHAR, J.

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