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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.07.2024

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.20022 of 2024
& WMP.No.21920 of 2024

K.M.Rasheed Khan

.... Petitioner

Vs

1.The District Collector,
Chennai.

2.The Revenue Divisional Officer,
The Revenue Divisional Office,
Guindy
Chennai – 32

3.The Thasildar,
Taluk Office
Mambalam-Guindy,
Chennai – 32

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records from 3rd respondents pertaining to the petitioner online rejected order of Legal heirs certificate application No.TN-720230505206 dated 03/06/2023 and quash the same and consequently direct the 3rd respondent to issue legal heirs certificate to petitioner.



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For Petitioner : Mr.G.Rajesh
For Respondents : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.U.Baranidharan
Additional Government Pleader

ORDER

Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for respondents and is represented by Mr.R.Neelakandan, learned Additional Advocate General. They are armed with instructions to enable a final disposal of this Writ Petition, even at the stage of admission.

2. The petitioner is aggrieved by an order passed by the Tahsildar, Mambalam-Guindy, Chennai/R3 returning the application filed by him seeking issuance of legal heirship certificate in respect of his mother Zarina Begum.

3. According to the petitioner, his mother had been married to K.M.Munawer Khan, on 10.09.1978 and he was born out of their wedlock on 27.08.1979. He states that his parents did not live together from 1981 and his father abandoned them when he was two years old. He was brought up by his mother and his father re-married. He states that his father had not maintained the family in any way and his whereabouts also unknown.

4. The petitioner states that his mother had filed a Maintenance Petition before the Family Court, Chennai in M.C.No.8 of 1983, which was ordered



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awarding maintenance of a sum of Rs.500/- per month. The said order was complied with by his father only for a period of two months. However, no proceedings were taken by both his mother and father for dissolution of marriage. He states that he is a beneficiary of a destitute widow legal heirship certificate obtained by her mother on 22.02.1997.

5. The petitioner states that he was married in 2011 and the family lived together with his mother. Ultimately, his mother died of cancer on 11.04.2023. Being the only surviving legal heir of his mother, the petitioner had applied for a legal heirship certificate twice on 16.05.2023 and 02.06.2023 and on both occasions, the application has been returned for want of details of his father.

6. To be noted, that the on-line application contains a field requiring details of the father to be supplied. However, in a situation such as the present, assuming that the factual matrix as projected by the petitioner is credible and is found to be true, it is inappropriate, impractical and unfair to expect an applicant to produce the details of a father, who he has never known all his life.

7. The explanation put forth by Mr.Neelakandan is that the software does not, at present, provide for such a situation. That may be so. However, the comment on the impugned order reads thus:

'Applicant is requested to submit father details. Hence returned'.



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8. This comment has been filled in manually by R3. Hence, at the stage of human intervention, it becomes incumbent upon the respondents to cause an enquiry into the facts. This has been prevented for the reason that the petitioner was never put to notice, as seen from the website, on the proposed reason for return of the application.

9. The proper procedure to be followed would be for the respondents to post online the required details, such that the petitioner could respond properly. This would pave the way for the respondent to look into the matter and do the needful rather than approaching the issue in a mechanical fashion.

10. In fact, learned counsel for the petitioner states that the petitioner had met R3 personally and has communicated the difficulties arising in this matter to him (paragraph 6 of the affidavit filed in support of the Writ Petition). In such circumstances and if the petitioner has really approached R3 and explained the situation to him in person, the return of the application, yet again seeking particulars of the petitioner's father without even causing enquiry into the submissions of the petitioner is arbitrary, mechanical and inappropriate.

11. The State must alive to such human situations and must approach them with a view to find solutions. One way by which such an event could be prevented is to ensure proper notice calling for the required particulars to enable the applicant to respond to the queries and pave the way for a proper



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enquiry by the respondents. Since this procedure has not been followed in the present case, the impugned order returning the application of the petitioner is found to be arbitrary and contrary to law and is quashed.

12. The application of the petitioner is restored to the file of R3. In order to facilitate a quick resolution of the matter, the petitioner is permitted to appear before R3 on 31.07.2024 at 12.00 noon without awaiting any further notice in this regard along with a copy of the application as well as all other particulars in his possession that would assist in the processing of the same. The convenience and availability of R3 to grant audience to the petitioner has been ascertained.

13. R3 shall hear the petitioner, consider the documents produced, cause necessary enquiry, either through Revenue Inspector or any other modes as would appropriate and take a view on the application of the petitioner for issuance of legal heirship certificate in accordance with law and all extant Government Order, Rules and Regulations, within a period of six (6) weeks from date of personal hearing.

14. This Writ Petition is allowed. No costs. Connected Miscellaneous Petition is closed.

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Index : Yes / No
Speaking order



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Neutral citations:Yes
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Dr.ANITA SUMANTH,J.

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