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W.P.No.32621 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2024

CORAM

THE HON'BLE MR.JUSTICE S.SOUNTHAR

W.P.No.32621 of 2022

R.G.Shankar

.. Petitioner

Vs.

The Tasildar,
Thirukazhukundram Taluk,
Chengalpet District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order made by the respondent in letter No.Na.Ka.No:2606/2022/A5 dated 16.09.2022 and to quash the same as illegal and arbitrary and consequently direct the respondent to issue class II legal heirship certificate to the petitioner as per the Hindu Succession Act, 1956.

For Petitioner : Mr.S.Shahulhameed

For Respondent : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.V.Ramesh
Government Advocate



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ORDER

This Writ Petition is filed challenging the order passed by the respondent rejecting the application filed by the petitioner seeking for the issuance of legal heir certificate.

2.It is the case of the petitioner that his brother R.G.Sampath Kumar died on 28.07.2021 and the wife of his deceased brother had pre-deceased him. Both of them died issueless. The petitioner herein claims himself as class II legal heir of the petitioner and he made an application for issuance of legal heirship certificate to the respondent. The respondent by the impugned order dated 16.09.2022, rejected the request of the petitioner relying on the Circular issued by the Commissioner, Revenue Department dated 09.08.2017, that the Revenue Authority cannot issue legal heirship certificate for Class II legal heirs.

3.Learned counsel appearing for the petitioner submits that pursuant to the order passed by the Hon'ble Full bench of this Court in



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W.P.No.25247 of 2021 dated 17.06.2022, the Government issued guideline for issuance of legal heirship certificate for class II heirs. In the light of the guidelines issued by the Government in the G.Os., the respondent may be directed to issue the legal heir certificate to the petitioner.

4.Mr.R.Neelakandan, learned Additional Advocate General appeared for the respondent and submitted that the Government in G.O.Ms.No.478 dated 29.09.2022, Revenue and Disaster Management, Revenue Administration Wing RA3(2) Section and amended G.O.Ms.No.110 dated 13.03.2024, Revenue and Disaster Management, Revenue Administration Wing, RA3(2) Section, issued guidelines for issuance of legal heirship certificate for class II legal heirs and the request of the petitioner can be considered in the light of the new and subsequent G.O issued by the respondent.

5.Heard the learned counsel appearing for the petitioner as well as Mr.R.Neelakandan, learned Additional Advocate General appeared for the respondent.



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WEB COPY 6.A perusal of the G.O.Ms.No.478 and 110 referred above would indicate that in the case where both the spouse died issueless, the legal heirship certificate can be issued in the name of the parents and siblings viz., brothers and sisters.

7.It is the specific case of the petitioner that his brother died issueless and wife pre-deceased him. In such circumstances, the petitioner being the brother of the deceased, entitle to get the legal heirship as per G.O.Ms.No.110 dated 13.03.2024, Revenue and Disaster Management, Revenue Administration Wing, RA3(2) Section. Therefore, the impugned order passed by the respondent on 16.09.2022 is set aside and the matter is remanded back to the file of the respondent with a direction to consider petitioner's request in the light of the Government Order issued in G.O.Ms.No.110 dated 13.03.2024. It is also stated by the petitioner that there are two other siblings for the deceased and their names also may be included in the legal heir certificate.



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8.It is needless to say that the respondent has to conduct enquiry and find out who are the persons entitled to get their name included in the legal heir certificate in the light of the above G.O. The respondent is directed to consider the request made by the petitioner and pass final orders within a period of 12 weeks from the date of receipt of copy of this order after issuing notice to the petitioner and other interested parties.

9.Accordingly, this Writ Petition is allowed. No costs. Since the writ petition is allowed and the matter is remanded back to the respondent, there is no necessity to make fresh application to the respondent seeking legal heir certificate. The earlier application of the petitioner dated 20.07.2022 shall be re-considered by the respondent.

10.With the above direction, this Writ Petition is disposed of. No costs.

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rst

Index : Yes/No

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Internet: Yes/No
Speaking/Non-Speaking Order

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To:

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Thirukazhukundram Taluk,
Chengalpet District.



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S.SOUNTHAR, J.

rst

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