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W.P.No.31643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.31643 of 2023

D. Ramachandran

... Petitioner

Vs.

The Tahsildar
Ayanavaram Taluk,
Ayanavaram Taluk Office,
Chennai – 600 023.

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Mandamus, to consider petitioner's representation dated 25.09.2023 and 13.10.2023 and issue petitioner the Second Grade Legal heirs certificate of Late Smt. Indirani Wife of late.Purusothaman including 1) P.Parvathi 2) D.Kesavamoorthy 3) G.Gowri 4) Chandrika 5) D. Ramachandran 6) late.S.Latha 7) Late.D.Gopalakrishnan 8) Late.Babu @ Duraibabu.

For Petitioner : Mr.T.Arul

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 petitioner's representations dated 25.09.2023 and 13.10.2023 and issue Second Grade Legal Heirship Certificate of late Smt. Indirani Wife of late.Purusothaman including 1) P.Parvathi 2) D.Kesavamoorthy 3) G.Gowri 4) Chandrika 5) D. Ramachandran 6) late.S.Latha 7) Late.D.Gopalakrishnan 8) Late.Babu @ Duraibabu.

2. The petitioner states that his elder sister Mrs.Indirani w/o late Purusothaman died on 18.09.2003, intestate without any issues. On 10.01.1993, husband of said Indirani pre-deceased her. Father of late Mrs.Indirani died on 05.02.1999 and her mother Mrs.Thayarammal died on 12.03.2015. Mrs.Indirani died leaving behind Class 2 legal heirs.

3. Mr.T.Arul, learned Counsel for the petitioner would submit that eight legal heirs were identified. Out of which, three legal heirs are died. Therefore, their legal heirs are also entitled to claim share in the property of



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late Mrs.Indirani. The petitioner submitted an application seeking legal heirship certificate and it was not considered by the Authorities. Thus, the present writ petition came to be instituted.

4. Mr.U.Baranidharan, learned Additional Government Pleader, relying on the counter affidavit filed by the Tahsildar, Ayanavaram Taluk, Chennai made a submission that the application submitted by the petitioner cannot be considered, since it is not falling under the parameters contemplated under Government Order issued in G.O.(Ms)No.478 dated 29.09.2022 and G.O.(Ms).No.110 dated 13.03.2024.

5. In this context, the Counter Affidavit filed by the Tahsildar reads as under:

“3.the petitioner herein claims that the following are the children born to S.R.Devarajulu (father) and Tmt.Thayarammal (mother). The father of the petitioner died on 05.02.1999 and the mother of the petitioner died on 12.03.2015.



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Sl.No.	Name	Age	Relationship	Marital Status
1	P.Parvathy	73	Sister	Married
2	D.Kesavamoorthy	62	Brother	Married
3	G.Gowri	59	Sister	Married
4	B.Chandrik	48	Sister	Married
5	D.Ramachandran	47	Brother	Married
	Predeceased legal heirs			
6	Latha		Sister	Died
7	D.Gopalakrishnan		Brother	Died
8	D.Duraibabu		Brother	Died
9	Indirani		Sister	Died

4.the petitioner himself admits that out of the aforesaid children born to his parents, the children noted against Sl.Nos.6 to 9 have also died. The petitioner further admits that the said sister Tmt.Indirani (mentioned against Sl.No.(9) had already married one by name Purushothaman and that the said Purushothaman expired on 10.01.1993. Subsequently, Tmt.Indirani also died on 18.09.2013 without having issues.

5.while things are so, the petitioner had applied for the issue of a Class-II legal heirship certificate. The request of the petitioner was not considered by this



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respondent. Aggrieved by this, the petitioner has filed this writ petition with the aforesaid prayer. The averments of the petitioner set out in paras 1 to 6 are all leading to the facts and circumstances of this case and this respondent is not traversing the same.

6. With regard to the averments of the petitioner set out in paras 6 to 8 of the affidavit, it is respectfully submitted that consequent on the common orders of the Hon'ble High Court dated 17.06.2022, and 12.08.2022 in W.P.No.25247 of 2021 and batch cases, the Government have issued a fresh order in G.O.Ms.No.478, Revenue and Disaster Management Department, Revenue Administration Wing, dated 29.09.2022. As per the new guidelines issued in the said Government order;

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. Legal Heir Certificate henceforth may be issued to any family.

II.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.



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Legal Heirship Certificate of the deceased (in case of a 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*

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*

In this case, the said Indirani had already married one by name Purushothaman. The said Purushothaman is reported to have died on 10.01.1993 and the said Indirani died on 18.09.2013. Moreover, it is pertinent to point out that in a similar case that in the order dated 08.01.2020 in W.P.No.9540 of 2018, the Hon'ble High Court has held as follows:

3.In the counter, this stand was tried to be justified by stating that for the deceased male, the daughter, the widow and mother are the legal heirs. That is correct when a Hindu male dies. However, when a Hindu female dies, the provision which is



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attracted is Section 15 of the Hindu Succession Act. According to Section 15 of the Hindu Succession Act, when a Hindu female dies, the legal heirs are her daughters (including children of any predeceased son or daughter) and the husband. If there are nobody in that category, only then will be the heirs of the husband be considered. If there are no heirs of the husband, then the mother and the father of the deceased female can be considered.

4. *In the present case, Vijayanagalshmi died leaving behind her daughter and husband. Consequently, they alone can be granted, legal heir certificate.*

5. *In view of all these propositions of law, the legal heir certificate issued is hereby cancelled and the 2nd respondent is directed to issue a fresh legal heir certificate, showing the petitioner herein and his daughter as the legal heir of the deceased Vijayanagalakshmi. A fresh legal heir certificate must be given on or before 15.02.2020.*

6. In view of the above legal position, the petitioner has to approach the competent Civil Court of law for the purpose of establishing his right in the manner contemplated.



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7. With this liberty, this Writ Petition stands **dismissed**. There shall be no order as to costs.

18.04.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

To

The Tahsildar
Ayanavaram Taluk,
Ayanavaram Taluk Office,
Chennai – 600 023.



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S.M.SUBRAMANIAM,J.

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