

(2026) 02 KL CK 1680

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5946 Of 2025

Anwar Hussain A

APPELLANT

Vs

Tehsildar, Kollam Taluk, Kollam District

RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2026) 02 KL CK 1680

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : Shashank Devan, K.M.Aneesh, Adarsh Kumar, Yadu Krishnan P.M., T.M.Abdul Latheef, Anima M.

Final Decision : Dismissed

Judgement

N. Nagaresh, J

1. The petitioners, who are children of late Ahemmed Hussain and late Shereefa Beevi, seek to issue a writ of mandamus directing the 1st respondent-Tahsildar to issue legal heirship certificate as per Ext.P3 by effecting requisite notification in gazette in accordance with law and incorporating the names and relevant particulars of the writ petitioners and respondents 4 to 8 as the legal heirs of late Shereefa Beevi.

2. Petitioners 1 to 3 are the children of late Ahemmed Hussain and late Shereefa Beevi. They are brothers of late Abdul Salam. Father Ahemmed Hussain passed away in the year 1980. Mother Shereefa Beevi expired on 12.11.2023. Abdul Salam A., brother of the petitioners, died on 03.12.2023. The 4th respondent is the wife of the deceased brother. Respondents 5 to 8 are his children.

3. The 1st petitioner filed Ext.P3 application dated 29.07.2024 before the Tahsildar seeking issuance of legal heirship certificate in respect of the deceased mother. The details of legal heirs are provided in Ext.P3 application. They also submitted Ext.P4 application for legal heir certificate in respect of the deceased

brother.

4. The petitioners state that they have produced necessary documents to enable the Tahsildar to verify and issue legal heir certificate. Statements of the petitioners and neighbours were also given. The respondents made requisite verification. However, the 1st respondent did not issue legal heirship certificate.

5. The 1st petitioner therefore filed W.P.(C) No.31257/2024. This Court delivered Ext.P5 judgment directing the respondents to process the applications and take a decision in accordance with law within one month. Respondents 4 to 8 had filed W.A. (Filing) No.1791/2024 challenging Ext.P5 judgment. The writ appeal did not question the relationship between the parties. The appellants do not have a case that they are not legal heirs of the deceased persons. The writ appeal was disposed of as per Ext.P7 judgment holding that it is not necessary to entertain the appeal.

6. The 1st respondent, however, rejected the applications for legal heirship certificates as per Exts.P8 and P9 orders. The applications are rejected on the ground that there are disputes between the legal heirs concerned and in order to ascertain who are the legal heirs, civil court has to be approached to obtain a Succession Certificate or that Administrator General's office has to be approached to obtain Administration Certificate. The petitioner states that the reasons given by the Tahsildar are unsustainable and are not sufficient to reject application for legal heirship certificate.

7. The counsel for the petitioners argued that Exts.P8 and P9 are based on incorrect understanding and ipse dixit interpretation of the Kerala Village Office Manual. The 1st respondent has mechanically rejected the application. There is no serious dispute that the writ petitioners and respondents 4 to 8 are the legal heirs. Exts.P8 and P9 are issued without hearing the petitioners. The 1st respondent is therefore compellable to issue legal heirship certificates as requested by the 1st petitioner, contended the counsel.

8. The 1st respondent filed counter affidavit. The 1st respondent stated that the petitioners filed application for legal heirship certificate of deceased brother A. Abdul Salam and their mother Shereefa Beevi. The petitioners stated that late Abdul Salam has only daughters. He asserted that as per Shariyat law, the brother of the deceased should also be included as legal heir along with daughters.

9. The 1st respondent stated that neither the wife or the children of deceased Abdul Salam have filed application for legal heirship certificate. They refused to give their statement before the Village Officer, Kollam West on the applications filed by the petitioners. The daughters of the deceased filed objections against issuance of the certificate. There is no illegality in Exts.P8 and P9.

10. Respondents 4 to 8 also resisted the writ petition and filed counter affidavit. Respondents 4 to 8 submitted that legal heirship certificates are intended

civil court and obtain Succession Certificate.

16. In the judgment in W.P.(C) No.13305/2018, this Court considered legality of rejecting application for heirship certificate. Relying on the judgment of this Court in Vishalakshi v. Bank of India [2006 (2) KLT 488], this Court held that a Succession Certificate can be applied for only in respect of debts and securities and cannot be granted in respect of immovable property.

17. Usually, a legal heirship certificate serves to identify the relationship of the heirs to the deceased person. Clause 261 of the Kerala Village Office Manual provides that the heirs of a deceased person shall produce heirship certificate issued by the Tahsildar for receiving the savings deposited by the deceased with the Government or other institutions.

18. G.O.(MS) No.359/67/RD dated 10.08.1967 which deals with issuance of heirship certificate provides that the certificate is to be issued for receiving the savings deposit by the deceased with the Government or other institutions or other eligible amount due to the deceased from Insurance Company or other institutions.

19. G.O.(MS) No.359/67/RD dated 10.08.1967 further provides that as per Part III of the KSR, the arrears of pension of a deceased pensioner can be paid to the heirs of the deceased to the extent of ₹ 1,00,000/- on production of a legal heirship certificate issued by the Tahsildar under the State Government in whose jurisdiction the pensioner lived and died or was drawing his pension or in whose jurisdiction the heirs of the deceased live.

20. The G.O. further provides that the heirship certificate should be issued by the Tahsildars on applications submitted by the claimants concerned, after enquiring into the claims through the Village Officer concerned. The G.O. also provides for publication in Gazette, enquiry into the objection, etc. In Renuka K.K. v. State of Kerala and others [2018 (5) KHC 601], this Court held that heirship certificates are intended specifically for movable assets, the value of which is less than ₹ 5,000/-.

21. A Full Bench of the Hon'ble High Court of Judicature at Madras considered the question of issuance of legal heirship certificate in W.P. No.25247/2021 and connected cases in the context of guidelines prescribed by the Special Commissioner for Revenue Administration for issuance of legal heirship certificate. The Full Bench of the High Court of Judicature at Madras held as follows:

A. Legal heirship is a status governed by the respective personal law of parties through various statutes. The certificates issued by the Tahsildar amount to nothing more than a relationship certificate reflecting the opinion of the Tahsildar as to the relationship of the applicant and others named therein with the deceased. Consequently, the certificate issued by the Tahsildar does not affect the legal right of any party and has no bearing on the status of a legal heir which

is conferred on an individual under his/her personal law.

B. An administrative circular does not have the force of law and does not bind the citizen or the

Court. They, however, bind the Tahsildar as a measure of ensuring administrative discipline and securing consistency in decision-making. The discretion of the Tahsildar is circumscribed by these administrative instructions which may be issued, from time to time, by the Commissioner of Land Administration.

C. Consequently, a writ of mandamus under Article 226 of the Constitution will not lie to direct the Tahsildar to issue a legal heirship certificate contrary to the terms of a circular. An exception to the aforesaid principle is where the circular, ex-facie, suffers from the vice of arbitrariness or perversity or runs counter to any provision of law. In such cases, it is open to the Court to ignore the circular and grant such relief(s) as may be permissible in law.

D. In the absence of any conflict with any primary or delegated legislation holding the field, G.O. Ms. No.581 Revenue Department dated 03.04.1987 casts a duty on the Tahsildar to issue a legal heirship certificate as per the norms and guidelines prescribed by the Commissioner of Land Administration. G.O. Ms.No.581 Revenue Department dated 03.04.1987 is undoubtedly a law as it has been issued in exercise of executive power under Article 162 of the Constitution of India. Consequently, when the Tahsildar keeps the application pending and does not decide on it one way or the other, a writ of mandamus may be issued by the High Court directing the Tahsildar to decide the application in terms of G.O.Ms.No.581 Revenue Department dated 03.04.1987 and the applicable circulars. The decisions in N.Dhanalakshmi (supra) and E. Thirumurthy (supra), to the extent that they hold that the Tahsildar has no power to issue a certificate of this nature, will stand overruled.

E. A legal heirship certificate issued by a Tahsildar cannot be equated to a succession certificate issued by a Court under Part X of the Indian Succession Act, 1925, in respect of the debt or securities. In this view of the matter, the High Court, in exercise of Article 226 of the Constitution of India, does not create any new mechanism as stated in the order of reference.

22. Considering Clause 261 of the Village Office Manual of the Government of Kerala and the Government Orders issued in this regard, it is evident that a legal heirship certificate can be issued when the claim of the applicant in respect of his right to inheritance is not exceeding ₹ 5,000/-. As far as government servants are concerned, legal heirship certificate can be issued to the heirs of government servant, provided the amount due to the deceased government servant does not exceed ₹ 1,00,000/-. Legal heirship certificate can also be issued for disbursement of compensation under the third party insurance scheme or under directions to parties by liquidators and Co-operative Societies, Bank and other institutions.

23. In the case of the petitioners, Exts.P3 and P4 applications would show that the petitioners have applied for legal heirship certificate, not to claim any amount up to ₹ 5,000/-. It is not an application by legal heirs of government servants either. The petitioners have applied for legal heirship certificate in order to produce before Court of law. The petitioners cannot seek legal heirship certificate for the purpose of producing the same before a Court. The petitioners cannot seek a writ of mandamus for issuance of legal heirship certificate by the Tahsildar concerned, for that purpose.

The writ petition is therefore without any merit and it is hence dismissed.