

(2015) 02 MAD CK 0067
In the Madras High Court
Case No : Writ Petition No. 2526/2015

K. Selvaraj

APPELLANT

Vs

The District Collector Thiruvallur and Others

RESPONDENT

Date of Decision : 03-02-2015

Acts Referred:

Citation : (2015) 02 MAD CK 0067

Hon'ble Judges : T.S. Sivagnanam, J.

Bench : Single Bench

Advocate : V. Jaishankar, for the Appellant; M.L. Mahendran, GA, Advocates for the Respondent

Final Decision : Disposed off

Judgement

T.S. Sivagnanam, J.—Heard Mr.V.Jaishankar, learned counsel for the petitioner and Mr.M.L. Mahendran, learned Government Advocate appearing for the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2. The petitioner challenges the order passed by the 2nd respondent dated 25.08.2014 rejecting the petitioner's application for grant of legal heirship certificate on the ground that the petitioner's father G.Elumalai, died on 01.11.1998 and that 16 years have lapsed.

3. Learned counsel placed reliance on an unreported decision of this Court in R. Manivalraj Vs. State of Tamil Nadu represented by its Secretary, Revenue Department, Fort St George, Chennai and another, dated 10.07.2009, wherein this Court considered the case where similar order of rejection was passed and wherein the application seeking for legal heirship certificate was filed after the death of the petitioner's father therein, after a period of 38 years and this Court, after hearing the learned Additional Advocate General appearing for the respondents who relied upon the Manual for Revenue Administration, disposed of the writ petition with certain directions. The said order reads thus:-

This writ petition is filed for issue of a Writ of Mandamus directing the 2nd respondent to issue legal heirship certificate to the petitioner herein in respect of death of his father R. Raju on the application made by the petitioner dated 24.11.2008.

2. The case of the petitioner is that his father, R. Raju Naidu died on 22.2.1971 and as on date, the petitioner and his three sisters are the legal heirs of the deceased R. Raju Naidu. According to the petitioner, he applied for legal heirship certificate to the 2nd respondent by application dated 24.11.2008. But, no orders were passed on the same. According to the learned counsel for the petitioner, the petitioner is in need of the legal heirship certificate in order to dispose of a property to arrange the marriage of one of his sisters. Though the application seeking legal heirship certificate submitted to the 2nd respondent along with the relevant documents was forwarded to Revenue Inspector - I for enquiry, the Revenue Inspector-I, without assigning any reasons, declined to conduct an enquiry and consequently, no legal heirship certificate was issued.

3. Learned Additional Advocate General appearing for the respondents has produced the manual for Revenue Department wherein, in the annexure to the said manual, certain guidelines have been issued with regard to issuance of legal heirship certificate and they are as follows:

According to the learned Additional Advocate General, as per clauses 4 and 5 of the said guidelines, on receipt of the application seeking legal heirship certificate, the Revenue Inspector and the Village Administrative Officer concerned have to enquire the applicant, his family members, relatives, neighbours and general public and record statements from them. The officers concerned will also have to carefully scrutinize documents such as ration card, Will, Marriage invitation card and other documents relating to the assets of the deceased, ascertain as to who are the legal heirs of the deceased and thereafter submit a report to the Tahsildar. Learned Additional Advocate General, fairly conceded that no time limit has been prescribed under the guidelines with regard to the issue of legal heirship certificate. Therefore, the contention of the petitioner that his father died 38 years back cannot be a ground to deny the legal heirship certificate sought for by the petitioner without conducting an enquiry as stipulated in the guidelines has to be accepted. Further, the learned Additional Advocate General submitted that as per the above guidelines, the Tahsildar concerned has to make an enquiry and issue the legal heirship certificate. Now, as on date, though the petitioner is residing within Tambaram jurisdiction, the application for legal heirship certificate has been made to Tahsildar, Mambalam-Guindy Taluk, who is not the competent authority.

4. Considering the above submission made by the learned Additional Advocate General, the petitioner is at liberty to make a request for issue of legal heirship certificate to Tahsildar, Tambaram and on receipt of such application, the authority concerned shall consider and pass, orders in accordance with the guidelines issued in the manual for Revenue Department. The writ petition is

disposed of accordingly. No costs.

4. Taking note of the above order, the impugned order passed by the 2nd respondent dated 25.08.2014 is set aside giving liberty to the petitioner to file a fresh application along with all the records available in his custody, viz., the details of the legal heirs, affidavits, statement etc. Thereafter, the 2nd respondent shall conduct an enquiry into the matter bearing in mind the decision of this Court cited supra and pass orders on merits and in accordance with law. The petitioner is also directed to cooperate with the enquiry to be conducted by the 2nd respondent.

5. With the above direction, the writ petition stands disposed of. No costs.