
(2024) 03 KL CK 0010
In the High Court Of Kerala
Case No : Writ Petition (C) No. 6210 Of 2024

Younus

APPELLANT

Vs

District Collector, Collectorate

RESPONDENT

Date of Decision : 01-03-2024

Acts Referred:

Citation : (2024) 03 KL CK 0010

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : Roy Thomas, K.K.Subeesh, Sunil Kumar Kuriakose, Arya Valsan

Final Decision : Allowed

Judgement

Devan Ramachandran, J

1. The petitioner impugns Ext.P3 Legal Heirship Certificate on the singular ground that persons shown as Serial Nos.6 and 7, ought not to have been included therein, since they are not the legal heirs of the deceased Kadeeshabi.
2. The petitioner says that he preferred Ext.P6 application before the Village Officer for correction of Ext.P3, but that this has now been rejected by the said Authority, through Ext.P7, stating that he has no jurisdiction to entertain the same because, in the application for Legal Heirship Certificate, they have inadvertently shown the names of these persons also, as being the legal heirs of late Kadeeshabi.
3. Sri.K.K. Subeesh – learned counsel for the petitioner, vehemently argued that, the inclusion of persons shown as Serial Nos.6 and 7 in Ext.P3, is inherently wrong because, they are admittedly not the legal heirs of late Kadeeshabi; and hence that his client was entitled to seek correction of it, which the Authority could have acceded to, since it does not amount to a review. He thus prayed that Ext.P7 be set aside and the Tahsildar be directed to act as per Ext.P6, within a time frame to be fixed by this Court.

4. Smt.Arya Valsan – learned counsel appearing for respondents 5 and 6, interestingly, conceded that her clients are not the legal heirs of late Kadeeshabi and that they have no legal right to continue to be reflected as such in Ext.P3. She submitted that, therefore, her clients do not stand in the way of this Court setting aside Ext.P3, so that a fresh Legal Heirship Certificate in its proper tenor, can be issued by the Tahsildar.

5. Sri.Sunil Kumar Kuriakose – learned Government Pleader, submitted that, in view of the afore consent of respondents 5 and 6, perhaps, this Court can now set aside Ext.P3 and allow the petitioner to apply afresh, showing the correct details so that it can lead to a proper Legal Heirship Certificate being issued. He submitted that, otherwise, the Village Officer cannot act because, he does not have a right of review; and secondly because, he has only acted in terms of the application made by the petitioner, for which, he cannot be found responsible.

6. There is force in the afore submissions of learned Government Pleader because, when the petitioner admits that he himself has made the application, showing respondents 5 and 6 also to be the legal heirs of late Kadeeshabi, I cannot find fault with the Tahsildar in having acceded to it.

However, since respondents 5 and 6 now unequivocally admit that they are not the legal heirs of late Kadeeshabi and that they have no objection to their names being removed from the Legal Heirship Certificate, I deem it appropriate to allow this writ petition with the following directions:-

a) This writ petition is allowed and Ext.P3 is set aside.

b) I leave liberty to the petitioner to move a fresh application before the Tahsildar and if this done within a period of two weeks from the date of receipt of a copy of this judgment, the same shall be considered by the said Authority and appropriate orders issued thereon, after causing necessary enquiries, as expeditiously as is possible, but not later than two months from this date.