



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.17108 of 2020

and W.M.P.(MD)No.14269 of 2020

Sathia Kumaran

... Petitioner

Vs.

The Tahsildar,  
Agasteeswaram Taluk,  
Nagercoil,  
Kanyakumari District.

... Respondent

**Prayer**: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of impugned rejection order passed by the respondent in Online Application No.TN-720201112683, dated 13.11.2020 and quash the same and consequently direct the respondent to issue Legal Heir Certificate of Late Mr.Venkatesh Veeramani in favour of the petitioner.

For Petitioner : Mr.A.Mohames Hashim

For Respondent : Mrs.M.Rajeswari,  
Government Advocate.

**ORDER**

**(This petition was heard through video conferencing)**

This writ petition has been filed challenging an order, dated 13.11.2020 passed by the respondent rejecting petitioner's application for legal heirship certificate for her deceased brother, namely, Venkatesh Veeramani, who died on 30.01.2020.

2.Mrs.Rajeswari, learned Government Advocate takes notice on behalf of the respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.It is the case of the petitioner that her brother Venkatesh Veeramani married one V.Rajalakshmi @ Reji on 31.10.2002 and  
<https://hcservices.ecourts.gov.in/hcservices/>



subsequently owing to matrimonial disputes between them, the said V.Rajalakshmi @ Reji filed a petition under Section 13(1)(ib) of Hindu Marriage Act to dissolve the marriage between her and petitioner's brother Venkatesh Veeramani, before the learned II Additional Subordinate Judge, Nagercoil in H.M.O.P.No.129 of 2015. By an order, dated 12.10.2017, the said petition was allowed by the learned II Additional Subordinate Judge, Nagercoil and marriage between the said V.Rajalakshmi @ Reji and Venkatesh Veeramani was dissolved by mutual consent. It is the case of the petitioner that her brother had no children out of the wed-lock with the said V.Rajalakshmi @ Reji. It is also case of the petitioner that her mother V.Thanammal also died on 31.05.2012. It is the case of the petitioner that her brother Venkatesh Veeramani died on 30.01.2020 leaving behind the petitioner as Class-II legal heir. It is the case of the petitioner that she applied for legal heirship certificate for her deceased brother Venkatesh Veeramani with the respondent on 12.11.2020. By the impugned order, dated 13.11.2020, the application of the petitioner has been rejected on the ground that the petitioner is not a Class-I legal heir and therefore, she has to approach the Court for getting legal heirship certificate. In such circumstances, this writ petition has been filed.

4.It is settled position of law as laid down by the various decisions of this Court that the respondent is empowered to issue legal heirship certificate for Class-II legal heirs also. The petitioner has also referred to certain decisions of this Court in her affidavit filed in support of this writ petition. The decisions referred to are as follows:-

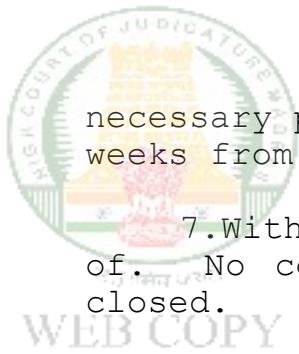
i) **M.Arumugam & Others Vs. The Tahsildar, Madurai South, Madurai & Another** reported in **CDJ 2013 MHC 6017**.

ii) **N.R.Raja & Others Vs. The Thasildar, Madurai** reported in **CDJ 2018 MHC 4675**.

In the aforementioned decisions, this Court has held that difficulty to identify the members of the Class-II legal heirs cannot be a reason to reject the request for issuance of legal heir certificate made by Class-II heirs when there are no Class-I heirs.

5.Therefore, this Court is of the considered view that by total non-application of mind, the respondent has rejected the application for issuance of legal heirship certificate for Venkatesh Veeramani, on the ground that the petitioner is not a Class-I legal heir and she is only Class-II legal heir.

6.For the foregoing reasons, this Court quashes the impugned order, dated 13.11.2020 passed by the respondent and remands the matter back to the respondent for fresh consideration. The respondent shall pass final orders on merits and in accordance with law on the application, dated 12.11.2020 submitted by the petitioner seeking issuance of legal heirship certificate for her brother Venkatesh Veeramani, who died on 30.01.2020, after hearing the



necessary parties including the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To  
The Tahsildar,  
Agasteeswaram Taluk,  
Nagercoil,  
Kanyakumari District

+1 CC to M/s.SGP ( SR-23543[F] dated 01/12/2020 )

W.P. (MD) No.17108 of 2020  
30.11.2020

sss (CO)  
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