

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945

WP(C) NO. 2732 OF 2024

PETITIONER:

ROBIN CHAVRIYAL T T

AGED 36 YEARS

S/O. LATE T.X. TOMY, C.C.NO.6/1600D, BAZAR ROAD, STAR
JUNCTION, MATTANCHERRY P O, ERNAKULAM, PIN - 682002

BY ADVS.

S.GOPAKUMAR

T.M.BINITHA

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY REVENUE DEPARTMENT
ANNEX I, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 THE THAHASILDAR
KOCHI TALUK OFFICE, FORTKOCHI, ERNAKULAM, PIN - 682001
- 3 THE VILLAGE OFFICER
MATTANCHERRY VILLAGE, ERNAKULAM, PIN - 682002

SRI. SUNIL K.KURIAKOSE, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner impugns Ext.P3 proceedings of the 2nd respondent - Tahsildar, whereby, his application for Legal heirship Certificate *qua* his deceased father - late T.X.Tomy, has been rejected, saying that he must resubmit the application, giving the details of other legal heirs. He asserts that there are no legal heirs surviving his father; however, conceding that his paternal grandmother is alive, but who, under the Indian Succession Act, cannot be construed to be his father's legal heir. He, therefore, prays that Ext.P3 be set aside and respondents 2 and 3 be directed to issue to him an appropriate legal heirship Certificate in terms of law.

2. Sri.Sunil Kumar Kuriakose - learned Government Pleader, responded to the afore

submissions of Sri.S.Gopakumar - learned counsel for the petitioner, saying that the deceased, namely late T.X.Tomy, is survived by his mother and by the petitioner; and that it is, therefore, that the respondents 2 and 3 had a confusion as to how an application would be preferred by the latter without the former being included. He asserted that, therefore, Ext.P3 is not in error because, all which the petitioner has been directed to do, is to state the names of all the legal heirs and produce supporting documents, which he can do, so that his application can then be considered afresh.

3. I am afraid that I cannot find full favour with the afore submissions of the learned Government Pleader because, before the competent Authority can direct the petitioner to act, it must be supported by reasons as to why the

requisition has been made. This is more so because, in Ext.P2 "Relationship Certificate" produced by the petitioner only he has been shown to be the son of his late father, without any other siblings.

4. Obviously, therefore, Ext.P3 cannot find my favour without further scrutiny; and if the 2nd respondent - Tahsildar or the 3rd respondent - Village Officer has any doubt that late T.X.Tomy is survived by any other legal heir, an opportunity of being heard to the petitioner ought to have been given, before he was directed to act in the manner as recorded therein.

Resultantly, I allow this writ petition and set aside Ext.P3; with a consequential direction to the competent among respondents 2 and 3 to consider the application of the petitioner for Legal heirship Certificate and take a final

decision thereon.

I clarify that if the Authorities are to harbour any suspicion that the petitioner's mother is also a legal heir of late T.X.Tomy under the Indian Succession Act, then an opportunity of being heard to the petitioner shall be offered and appropriate order settled thereafter on that issue. However, while doing so, it shall be borne in mind by the said Authorities that the singular contention of the petitioner is that, under the Indian Succession Act, the mother of late T.X.Tomy cannot be construed to be his a legal heir.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

SAS

APPENDIX OF WP(C) 2732/2024

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE DEATH CERTIFICATE OF THE FATHER OF THE PETITIONER
Exhibit P2	TRUE COPY OF THE RELATIONSHIP CERTIFICATE ISSUED BY THE RESPONDENT NO.3
Exhibit P3	TRUE COPY OF THE REJECTION NOTE ISSUED FROM THE AKSHAYA KENDRA