

(2024) 04 KL CK 0182

High Court Of Kerala

Case No: Writ Petition (C) No. 24757 Of 2016

Snehaprabha K. @ K.S.Prabha

APPELLANT

Vs

Tahsildar

RESPONDENT

Date of Decision: April 2, 2024

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 31(2)

Hon'ble Judges: M.A.Abdul Hakhim, J

Bench: Single Bench

Advocate: K.P.Hareendran, U.P.Balakrishnan, Resmi Thomas

Final Decision: Disposed Of

Judgement

M.A Abdul Hakhim, J

1. The petitioners are claiming that they are the legal heirs of one Sri.V.M. Jayadevan, who died on 31.03.2006.

2. According to the petitioners, the land belonging to the said Sri.V.M.Jayadevan was acquired under the Land Acquisition Act and they require Legal

Heirship Certificate for getting payment of the compensation amount from the land acquisition authorities as his legal heirs. They made a Request to

the Respondent No.1 to issue a Legal Heirship Certificate of Late Sri.V.M.Jayadevan, but the same was turned down by Ext.P6 order holding that

the authority to issue Legal Heirship Certificate of Late Sri.V.M.Jayadevan is the Revenue Authorities in Mahe, the place where Sri.V.M.Jayadevan

had resided and was dead. The petitioners have filed this writ petition challenging Ext.P6 and seeking direction to the respondents to issue Legal

Heirship Certificate of the said late V.M. Jayadevan.

3. The Respondent No.1 filed a Statement opposing the prayers in the writ petition and reiterating the reasons stated in Ext.P6.

4. Ext.P1 Death Certificate shows that the Sri. V.M.Jayadevan died at Kottupalayam within the Municipality of Oulgaret of Union Territory of Pondicherry.

5. The learned Government Pleader argued that the authority to issue the Legal Heirship Certificate of Sri. V.M.Jayadevan is the authority within the

Mahe District in which place the aforesaid V.M.Jayadevan died and that the Revenue authorities concerned can issue Legal Heirship Certificate only

after conducting necessary enquiry in the matter. According to him, Sri. V.M.Jayadevan was admittedly, a permanent resident in Mahe till his death

and his death took place in Mahe and hence the enquiry in the present case could be done only in Mahe.

6. The Learned Single Judge of this Court had occasion to consider the purpose for which the Legal Heirship Certificate is issued in Renuka. K. K V.

State of Kerala and Others, 2018(5) KHC 601. In the said decision, the Learned Judge referred to Clause 261 of the Village Manual and G.O. (MS)

No.359/67 / RD dated 10.08.67 which provides for issuance of Heirship Certificates. As per the said provision, Heirship Certificates are intended

specifically for movable assets; the value of which is less than Rs.5,000/-.

7. In a later decision in Premalatha Subash V. State of Kerala, 2021(5) KHC 736 another learned Single Judge considered the very same issue. By

the time the amount of Rs.5,000/- was enhanced to Rs.1,00,000/- by way of amendment as per G.O. (MS) No. 136/2007 / RD dated 27/04/2007. The

said decision reveals that G.O.(MS) No. 359/67 / RD dated 10/08/1967 deals with Standing Orders on issuance of certificates including 'Heirship

Certificates'; that under the provisions of the Kerala Financial Code, Volume I, pay, leave, salary and other emoluments due to and claimed on behalf

of a deceased Government servant can be paid without the production of the usual legal authority, but on production of an heirship certificate issued by

the Tahsildar in whose jurisdiction the Government Servant lived and died or was drawing his pay etc. or in whose jurisdiction the heirs of the

deceased live, provided the amount due to the deceased Government Servant does not exceed Rs.1 lakh ; that as per Part III of the Kerala Service

Rules, the arrears of pension of a deceased pensioner can be paid to the heirs of the deceased to the extent of Rs.1 lakh on production of an heirship

certificate issued by a 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; that the heirship certificates should be issued by the Tahsildars on applications put in by the claimants

concerned and after enquiring into the claims through the village officers concerned ; that other formalities like publication in gazette, calling for

objections, enquiry into objections etc are to be completed before issuance; that the said Government Order also authorises the Taluk Tahsildars to

issue heirship certificates in regard to disbursement of compensation to the parties concerned under the third party insurance scheme or under

directions to parties by liquidators and Co - operative Societies, banks and other institutions after such enquiries into the right and title of the claimants

as may be deemed sufficient and after observing the procedure as above.

8. The aforesaid provisions on the basis of which the Legal Heirship Certificate is issued, reveal that it is to be 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. Since

the petitioners who claims to be the legal heirs of the deceased live within the local limits of the Respondent No.1, the Respondent No.1 has authority

to issue the Legal Heirship Certificate of late Sri. V.M.Jayadevan. Of course, the Respondent No.1 can seek any detail from any of the Revenue

Authorities in Mahe within whose local limits the deceased had been residing and was died.

9. Accordingly I set aside Ext.P6 Order passed by the Respondent No.1. But I am unable to direct the Respondent No.1 to consider the Application

for Legal Heirship Certificate submitted by the petitioners to the Respondent No.1 going by the need projected by the petitioners in the writ petition;

i.e; for getting disbursal of the land acquisition compensation amount, as the aforesaid provisions reveal that the Legal Heirship Certificate cannot be

used for disbursement of land acquisition compensation and it cannot be used for disbursement of amount above Rs.1,00,000/-.

10. Section 31 (2) of the Land acquisition Act, 1894 provides that if the persons interested shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under Section 18 would be submitted. In such case, it is for the Reference Court to adjudicate as to who are the persons interested entitled to receive the compensation deposited in the Court. In view of the said provision, I am of the view that in case of doubt as to the legal heirs of the deceased land owner whose land was acquired, the proper course to be adopted by the Land Acquisition Officer is to deposit the award amount in Court under S. 31(2) of the Land Acquisition Act, 1894 for adjudication with respect to the persons interested who are entitled to receive the deposited award amount. In such reference, the Reference Court can decide as to who are the legal heirs entitled to get the award amount deposited in the Court as ~ the persons interested™.

11. In view of the above discussion, though I set aside Ext.P6 Order passed by the Respondent No.1, I am not inclined to direct the Respondent No. 1 to consider the Application for issuance of Legal heirship Certificate submitted by the petitioners.

12. The petitioners are given liberty to approach the Land Acquisition Officer concerned to deposit the award amount in the Reference Court under S.31(2) of the Land Acquisition Act, 1894 to decide as to who are the legal heirs of late Sri. V.M.Jayadevan entitled to get the compensation deposited in the Court as ~the persons interested™.

The Writ Petition is disposed as above.