



ABSTRACT

Revenue Administration – Amendment to Guidelines and Procedures for issuance of Legal Heir Certificate – Issued.

REVENUE AND DISASTER MANAGEMENT, REVENUE ADMINISTRATION WING, RA-3(2) SECTION

G.O.(Ms.) No.110

Dated:13.03.2024

**சோபகிருது வருடம், மார்ச் 30,
திருவள்ளூர் ஆண்டு 2055,**

Read :

1. Hon'ble High Court of Madras order dated 17.06.2022 and 12.08.2022 in W.P.No.25247 of 2021 and batch cases.
2. G.O.(Ms) No.478, Revenue and Disaster Management [RA-3(2)] Department, dated 29.09.2022.
3. Hon'ble High Court of Madras Order dated 04.01.2023 in W.P.No.25247 of 2021 and batch cases.
4. From the Additional Chief Secretary/Commissioner of Revenue Administration letter No.RA.5(3)/17167/2020, dated 31.05.2023.
5. Hon'ble High Court of Madras Order dated 10.07.2023 in W.P.No.20189 of 2023.
6. From the Additional Chief Secretary/Commissioner of Revenue Administration letter No.RA.5(3)/17167/2020, dated 01.03.2024.

ORDER:

In the Government Order second read above, in supersession of the orders issued earlier, the Government have issued the guidelines and procedures for issuance of Legal Heir Certificate.

2. The Hon'ble High Court of Madras in its order third read above has ordered as follows:-

" --- XXX XXX XXX ---
--- XXX XXX XXX ---

5. We are of the opinion that the power of the Governor under Article 162 of the Constitution of India cannot be trammelled by the order passed by us in these proceedings and it would always be open to the Government to amend G.O. (Ms) No.478 dated 29.09.2022 without seeking leave of this court in the future.

6. We place on record our appreciation to the Government for accepting the suggestions of this court and for putting in place a robust mechanism for the issuance of Legal Heir Certificate."

3. The Hon'ble High Court of Madras in its order fifth read above has ordered as follows:-

" --- XXX XXX XXX ---
--- XXX XXX XXX ---

5. Learned counsel for the petitioner submitted that the said G.O., is flawed for the reason that it overlooks the case where a person is married and died a widower or a widow, without any issues. If such person is a male, and if he has no parents living on the date of his death, one of his Class-II heirs has power under the Hindu Succession Act, 1956, then necessarily his siblings namely the brothers and sisters would be his Class-II heirs.

6. Prima facie, this Court considers that the G.O., does not appear to have taken into account Schedule II of the Hindu Succession Act, 1956 in framing the G.O.

7. The Government is required to spend time as to the correctness of the G.O., in the light of what the personal law of the country provides in this regard, and required to tweet in the said G.O., dated 29.9.2022. For the present, the respondent is directed to dispose of the petitioner's representation dated 22.5.2023 within a period of eight (8) weeks from today.

8. This writ petition is accordingly disposed of. No Costs."

4. Accordingly, in the letter sixth read above, the Additional Chief Secretary/Commissioner of Revenue Administration has forwarded the amendment proposal and requested the Government to issue necessary amendments to the Guidelines and Procedures issued in G.O.(Ms) No.478, Revenue and Disaster Management Department, dated 29.09.2022 for issue of Legal Heir Certificate based on the orders of the High Court of Madras in W.P.No.20189/2023, dated 10.07.2023.

5. The Government after careful examination decided to accept the proposal of the Additional Chief Secretary/Commissioner of Revenue Administration and accordingly issue the following amendments to Clause 2 of the Guidelines and Procedures for issuance of Legal Heir Certificate issued in the G.O. second read above.

Amendment

In the said G.O., in the Annexure for Clause 2 the following Clause shall be substituted:

" 2. Legal Heirship (Relationship) Certificate shall be issued to the applicant(s) irrespective of the Religions / Gender, with the name of the following persons; their relationship with the deceased and their living status:

I. (A) In case of death of Married Person

- i. Spouse(s) of the deceased (Mention the names of the spouses, if more than one spouse, if permissible under relevant personal Law)

- ii. Children / Legally adopted Children of the deceased
- iii. Parents of the deceased

(B) In case of death of Re-married Person, after the demise of legally wedded wife or after the divorce granted by competent Court or permissible under the Personal Law, concerned.

- i. Children of the pre-deceased / legally divorced wife
- ii. Existing Spouse(s) of the deceased, (Mention the names of the spouses, if more than one spouse, if permissible under relevant Personal Law)
- iii. Children / Legally adopted Children of the deceased
- iv. Parents of the deceased

(C) In case of death of Un-Married Person

- i. Parents of the deceased
- ii. Siblings (Brothers and Sisters) of the deceased

(D) If both spouses died, with Children

- i. Children / Legally adopted Children of the deceased
- ii. Parents of the deceased

(E) If both spouses died, without Children

- i. Parents of the deceased
- ii. Siblings (Brothers and Sisters) of the deceased

II. The following aspects shall be mentioned in the 'Legal Heir(ship) Certificate',

*As per the order of the Hon'ble High Court of Madras, dated 17.06.2022 in W.P. No.25247 of 2021

(i) This is only a relationship certificate, indicating the names of the persons and their relationship, with the deceased;

(ii) This is an opinion of issuing authority, as to the relationship of the persons named in the certificate, with the deceased, based on the information furnished by the applicant(s) and on verification of the information, by a discreet enquiry conducted by the office of the issuing authority;

(iii) This certificate cannot be equated to a succession certificate issued by a Court;

(iv) The certificate issued by the Tahsildar does not affect the legal right of any party and has no bearing on the status of the legal heir which is conferred on an individual under his / her personal law; and

(v) This certificate is liable to be recalled by the issuing authority, if it is found that the information furnished is false or the certificate is obtained on suppression of material facts or fraudulently, in any other means.

III. The following clause shall also be added in the 'Legal Heir(ship) Certificate':

These Guidelines are applicable, only to the applications that were made under G.O.(Ms) No.478, Revenue and Disaster Management [RA-3(2)] Department, dated 29.9.2022 and pending without any decision or made after the implementation of these Guidelines and issuance of certificate thereon and it would not be applicable or not enforceable to any certificate issued prior to these guideline.

These guidelines would not affect or alter any certificate, which was issued prior to these guidelines, published in G.O.(Ms.) No.478, Revenue and Disaster Management [RA-3(2)] Department, dated 29.9.2022."

(By Order of the Governor)

V.Rajaraman
Secretary to Government

To

The Additional Chief Secretary/Commissioner of Revenue Administration,
Chepauk, Chennai-600 005.

All the Additional Chief Secretary / Principal Secretary / Secretary,
Secretariat, Chennai-600 009.

All District Collectors.

Copy to

The Commissioner of e-Governance,
Directorate of e-Governance,

P.T.Lee Chengalvarayan Naicker Building, 2nd Floor,
807, Anna Salai, Chennai-600 002.

// Forwarded By Order //

Section Officer

[Signature]
13/3/24

13.3.2024