ABSTRACT

WRITS – W.P.Nos.25247 of 2021, 16946 of 2020, 12962, 15138, 16922, 18901, 22259, 25418, 26883, 27062, 27231, 27239, 27445, 27664, 28247 & 28350 of 2021, 679, 797, 860, 1098 & 1254 of 2022 and W.P.Nos.35697 of 2019, 1910, 2655, 2913, 3186, 3230, 3275, 3498, 4117, 4335, 4443, 4878, 5192, 5608, 5695, 5747, 6642, 6727, 7005, 7090, 7521, 8259, 8262 & 8438 of 2022 and connected W.M.Ps. - Filed by Thiru.P.Venkatachalam and 44 others before the Hon'ble High Court of Madras - Legal Heir Certificate – New guidelines - Orders - issued.

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

G.O.(Ms) No.478 **Dated : 29.09.2022**
சுபகிருது வருடம், புரட்டாசி 12,
திருவள்ளுவர் ஆண்டு 2053

Read :

1. G.O.(Ms) No.2906, Revenue Department, dated 04.11.1981.
2. G.O.(Ms) No.581, Revenue Department, dated 03.04.1987.
3. Government letter (Ms) No.1534, Revenue Department, dated 28.11.1991.
4. From the Additional Chief Secretary/Commissioner of Revenue Administration, Circular No.9/2019, dated 24.09.2019.
5. Hon'ble High Court order dated 17.06.2022 in W.P.No.25247 of 2021 and batch cases.
6. Government Letter No.9633/RA-3(2)/2022-4, Revenue & Disaster Management Department, dated 30.06.2022
7. From the Additional Chief Secretary/ Commissioner of Revenue Administration letter No.RA.5(3)/17167/2020, dated 19.07.2022.
8. Hon'ble High Court Common Order dated 12.08.2022 in W.P.No.25247 of 2021 and batch cases.

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ORDER:

In the Government Order first read above, the Government have ordered that, the Tahsildar/Independent Deputy Tahsildar concerned will be authorised person to issue Legal Heir Certificate.

2. In the Government Order second read above, the Government, among other things, have ordered that the issue of Legal Heir Certificate is one of the duties of Tahsildars.

3. In the Government Order third read above, the Government have issued certain guidelines for the issue of Legal Heirship Certificate.

4. In the reference fourth read above, the Additional Chief Secretary/Commissioner of Revenue Administration have issued detailed revised circular/ instructions in respect of issuance of Legal Heirship Certificate.

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5. In W.P.Nos.25247 of 2021, 16946 of 2020 and etc. filed by Tvl.P.Venkatachalam and 44 others arising out of non-issue of Legal Heir Certificate by the Tahsildars concerned by identifying class II legal heirs, the Full Bench of the Hon'ble High Court of Madras comprising of the Honourable Mr. Justice P.N. Prakash, the Honourable Mrs. Justice R. Hemalatha and the Honourable Mr. Justice A.A. Nakkiran, by order dated 17.06.2022 has ordered as follows:-

"xxx xxx xxx xxx xxx xxx xxx xxxxx
xxx xxx xxx xxx xxx xxx xxx xxxxx

65. To sum up, our answers to the questions formulated in paragraph 10, (supra), are as under:

A. Legal Heirship is a status governed by the respective personal law of parties through various statutes. The certificates issued by the Tahsildar amount to nothing more than a relationship certificate reflecting the opinion of the Tahsildar as to the relationship of the applicant and others named therein with the deceased. Consequently, the certificate issued by the Tahsildar does not affect the legal right of any party and has no bearing on the status of a legal heir which is conferred on an individual under his/her personal law.

----xxx xxx xxx xxx xxx xxx ----
----xxx xxx xxx xxx xxx xxx ----

G. Consequently, the Government of Tamil Nadu is directed to issue a fresh Government order in lieu of Circular No.9 of 2019 without the anomalies pointed out, supra, in particular the usage of the expressions "Class-1" and "Class-II" legal heirs under the Hindu Succession Act, 1956. The Government will also consider incorporating a father, blood brother/sister as eligible applicants for unmarried deceased, as also the administrative remedies of appeal and revision found in paragraphs 9 and 10 of the existing Circular No.9 of 2019. This exercise shall be completed within a period of six weeks from today.

66. The order of reference dated 19.01.2022 is, thus, answered on the aforesaid terms. Post the matter on 29.07.2022 for reporting compliance."

6. In the reference sixth read above, the Additional Chief Secretary/Commissioner of Revenue Administration was requested to send a detailed report and proposal alongwith draft guidelines so as to enable to implement the said orders of the Hon'ble High Court of Madras.

7. In the reference seventh read above, the Additional Chief Secretary/Commissioner of Revenue Administration has sent his report to issue guidelines for Legal Heir Certificate as follows:

I. Dispensing the classification of heirs as Class I and Class II.
II. Legal Heir Certificate henceforth may be issued to any family members of the deceased and it should be issued by including only the family members of the deceased as provided hereunder,

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along with their living status, irrespective of the deceased person's Religion, Gender.

Legal Heirship Certificate of the deceased (in case of married person) will include the following members:-

1. Father of Deceased
2. Mother of Deceased
3. Spouse of Deceased
4. Sons of Deceased
5. Daughters of Deceased

III. Legal Heir Certificate of the deceased (in case of unmarried persons) will include the following persons:-

1. Father of deceased
2. Mother of deceased
3. Brothers of deceased
4. Sisters of deceased

IV. Further, it is also recommended to incorporate the following appeal provisions:-

S.No.	Existing Provisions	Proposed Provisions
1.	**Appeal Provision :-** If any disputes arise on the Legal Heir Certificate issued, an appeal petition shall be filed to the respective Revenue Divisional Officer within a period of one year from the date of issuance of the certificate.	**Appeal Provision :-** Existing provision may be continued.
2.	**Power of Revision :-** The power of revision lies with the District Collector and Revision petition shall be filed by the applicant within a period of 3 years from the date of passing of the appeal order.	**Power of Revision :-** The power of revision lies with the District Revenue Officer and Revision petition shall be filed with in a period of 3 years from the date of passing of the appeal order.

8. The Hon'ble High Court in its Common Order dated 12.08.2022 in W.P.Nos.25247 of 2021, 16946 of 2020 and etc. filed by Tvl.P.Venkatachalam and 44 others has ordered as follows:-

"Pursuant to our directions, the Government has submitted a draft notification for the issuance of Legal Heir Certificates in the State, which we find to be, by and large, in consonance with what we have held in our order dated 17.06.2022.

2. Mr.R.Neelkandan, learned Additional Advocate General, seeks six [6] weeks time for issuing and notifying the Government Order. The same is recorded.

3. We direct the Registry to post the individual Writ Petitions after eight [8] weeks before the Hon'ble Single Judge who holds this subject roster, for disposal inaccordance with the law laid down by us in our order dated 17.06.2022 and in the light of the new

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Government Order that would be passed by the Government as stated above."

9. The Government have examined the detailed and comprehensive order of the Full Bench of Hon'ble High Court of Madras in its order dated 17.06.2022 and 12.08.2022 comprised of the Honourable Mr. Justice P.N. Prakash, the Honourable Mrs. Justice R. Hemalatha and the Honourable Mr. Justice A.A. Nakkiran in W.P.No.25247 of 2021 and 16946 of 2020 & 44 others. Based on the principles enunciated in the High Court order referred above, the Government have decided to accept the recommendations of the Additional Chief Secretary/ Commissioner of Revenue Administration with some modifications and hereby issues the guidelines and procedures in supercession of the orders issued earlier in the reference 1 to 4 read above for issuance of Legal Heir Certificate as per the annexure.

10. The Additional Chief Secretary/ Commissioner of Revenue Administration is requested to issue instructions to all the District Collectors to follow these guidelines and procedures for issuing Legal Heir Certificate. The Additional Chief Secretary/ Commissioner of Revenue Administration is also requested to ensure that the Time Chart and Review Chart prescribed by the Government are scrupulously adhered to by the subordinate officers.

(By Order of the Governor)

Kumar Jayant
Principal 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-Goverance,
Directorate of e-Goverance,
P.T.Lee Chengalvarayan Naicker Building, 2nd Floor,
807, Anna Salai,
Chennai-600 002.
Stock file/Spare copy.

// Forwarded by Order //

29/9/2022
Section Officer
29/9/22

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Annexure to G.O.(Ms) No.478, Revenue & Disaster Management [RA-3(2)] Department, Dated 29.09.2022.

Guidelines and of Procedures for issuance of Legal Heir Certificate:-

1. The petitioner can apply electronically online to the Tahsildar in whose jurisdiction, the deceased person "ordinarily resided" before his / her death. (If the person has resided for less than 6 months, then the Tahsildar shall obtain a report from the Tahsildar in whose jurisdiction the deceased resided for more than a year).

2. The Legal Heir Certificate shall be issued as a common document applicable to everyone without any difference based on religion or gender.

(i). Legal Heirship Certificate of the deceased (in case of married person) will include only the following members (alongwith their living status):-

1. Father of Deceased
2. Mother of Deceased
3. Spouse of Deceased
4. Son(s) of Deceased
5. Daughter(s) of Deceased

(ii). Legal Heir Certificate of the deceased (in case of unmarried persons) will include only the following persons (alongwith their living status):-

1. Father of deceased
2. Mother of deceased
3. Brother(s) of deceased
4. Sister(s) of deceased

3. Any one of the legal heirs mentioned in Clause 2 above may apply for this certificate on behalf of others. The applicant should submit the following details while submitting the application:-

(1) Death Certificate of the deceased or Late Registration of Death Certificate from Revenue Divisional Officer.

(2) In the case of person treated as dead, (person who is missing for a period of 7 years or staying away from the family), the order of the competent court declaring the person as dead.

(3) Any one of the following documents should be submitted as a Proof of residence of the deceased person:-

i. Aadhaar Card;
ii. Voter ID Card;
iii. Passport;
iv. Bank Pass Book/Postal Savings Book;
v. Driving License;
vi. Pension Payment Order;
vii. Any other similar document.

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4. For proving relationship of the legal heirs with the deceased, the following documents can be submitted.

1. Marriage Registration Certificate; or
2. Passport; or
3. Voter ID; or
4. Aadhaar card; or
5. Community certificate; or
6. Driving license; or
7. Birth Certificate of all children; or T.C. of all children.
8. Any other similar document.

5. In case, no Adult legal heir is surviving, a minor legal heir can apply for Legal Heir Certificate through his/her guardian or through the brother(s) or sister(s) of the deceased person.

6. Adopted Children:-

In case of issue of Legal Heir Certificate to an adopted child, the Tahsildars should issue Legal Heir Certificate after confirming that the individual has been adopted legally.

7. The following provisions for Appeal / Revision is provided for the aggrieved persons:-

7 (1). Appeal :-

Against the order of the Tahsildhar, an appeal petition can be filed to the respective Revenue Divisional Officer within a period of one year from the date of issuance/rejection of the application, as the case may be.

7(2). Revision :-

The power of revision over the orders passed by the Revenue Divisional Officer lies with the District Revenue Officer and Revision petition shall be filed within a period of 1(one) year from the date of passing of the order in appeal.

8. Legal heir applications will be processed by the following system:-

1. Applicant will apply on the Online system
2. The application will be routed to Village Administrative Officer / Revenue Inspector.
3. The Village Administrative Officer / Revenue Inspector must verify the applied documents and recommend with reasons for acceptance / with modifications, if any, and forward to the Revenue Inspector/Tahsildar in one week. Revenue Inspector has to enquire within one week and certificate will be issued by Tahsildar within one week after the receipt of report from the Revenue Inspector.
4. The applicant can download the Legal Heir Certificate from the web on receipt of a SMS.

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9. General instructions:-

The Tahsildar/ Independent Deputy Tahsildar should not impose any restrictive conditions while issuing the Legal Heir Certificate such as,

(a) this certificate is valid for only six months.
(b) should not fix any other specific time limit.
(c) as not valid in the Civil Court etc.

10. Where it comes to the notice of the Issuing Authority that the Legal Heir Certificate has been obtained by furnishing false information/suppression of material facts, the same shall be liable to be cancelled by the Issuing Authority.

Kumar Jayant
Principal Secretary to Government.

//True Copy//

29/9/2022
Section officer
29/9/22

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