

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai

On this Friday the 29th day of September 2023

O.S.No. 84 of 2022

TNKI13-000112-2022

Murugan

....Plaintiff

/versus/

1. Parvathi
2. Vasuki
3. Madhu
4. Tahsildar, Uthangarai
5. District Collector, Krishnagiri

....Defendants

This suit came up before this Court on 29.09.2023 for final hearing in the presence of advocate Thiru. R. Chandrasekaran, the learned counsel for the plaintiff and the defendants set *ex parte* for non-appearance and upon hearing the plaintiff side and on perusal of records, evidence and having stood over for consideration till date, this Court delivers the following:

JUDGMENT

The suit has been instituted for declaration that the plaintiff and the defendants 1 to 3 are the legal heirs of the Late. Govindasamy and for mandatory injunction directing the 4th defendant to issue legal heirship certificate accordingly and for the cost of the suit.

The averments of the plaintiff in brief:

1. The plaintiff avers that one Govindasamy is the brother of the father of the plaintiff namely Mariyappan and the said Govindasamy died on 10.03.1978. The plaintiff avers that the first class legal heir of the deceased Govindasamy i.e. his wife namely Mangammal died on 23.05.1981 and there are no direct legal heirs to the

deceased Govindasamy. The plaintiff avers that after the death of the said Govindasamy, the properties were enjoyed by his wife as his legal heir and after her death, the father of the petitioner namely Mariyappan enjoyed the properties as second class legal heir. The plaintiff avers that on 28.06.2006, the father of the plaintiff who was the second class of the deceased Govindasamy died and the house plot in the name of the deceased Govindasamy remains in his name without any mutation. The plaintiff avers that the plaintiff petitioned the 4th defendant for issuance of legal heirship certificate and the same was rejected by the 4th defendant by memo ௫.௫.3850/2022/B2 dated 16.08.2022 on the grounds that the plaintiff is a class III legal heir. The plaintiff avers that according to the Hindu succession law, after the death of the deceased Govindasamy in 10.03.1978, and after the death of his wife in 25.05.1981 and after the death of his class II legal heir namely Mariyappan on 28.06.2006, the issues of the class II legal heirs are the legal heirs and are entitled to be declared as so. The plaintiff avers that the father of the deceased Govindasamy is no more and there are no sons or daughters to him. The plaintiff avers that the 4th entry of the class II recognizes the sons of brothers and sons of sisters and daughters of sister as legal heirs. The plaintiff avers that on the above said premise, the plaintiff has approached the 4th defendant on 01.10.2022 which was rejected advising the plaintiff to approach the Civil Court for remedy. Hence, this suit for declaration of the plaintiff and defendants 1 to 3 as legal heirs of the deceased Govindasamy and for mandatory injunction directing the 4th defendant to issue legal heirship certificate and for the cost of the suit.

The non-appearance of the defendants:

2. The summonses to the defendants were duly served and the defendants 4 and 5 were set *ex parte* on 03.01.2023 for non-appearance and the defendants 1 to 3 were set *ex parte* on 23.02.2023 for non-appearance.

Point for consideration:

3. The point for consideration in this suit is whether the plaintiff is entitled to the reliefs as prayed for?

Evidence:

4. The plaintiff has been examined as PW1 and exhibits A1 to A7 marked and one Kandan is examined as PW2.

Arguments:

5. The learned counsel of the plaintiff argued that the plaintiff by way of document and oral evidence has proved his case and is entitled to the reliefs prayed for. The learned counsel further argued that no objection was received for the paper publication for any objection from the public and there are no legal heirs other than the plaintiff and defendants 1 to 3 for the deceased Govindasamy and argued for decreeing in the suit in favour of the plaintiff.

Discussion:

6. This Court heard the learned counsel for the plaintiff and perused case records. The plaintiff has examined himself as PW1 and has testified in tune with the averments in the plaint. The plaintiff has marked the memo issued by the 4th defendant as Exhibit A1. A perusal of Exhibit A1 shows that the plaintiff had applied to the 4th defendant for issuance of the legal heirship certificate of Late. Govindasamy and the same was rejected on the ground that there are no direct legal heir to the deceased and that the petitioner is a class III legal heir. The downloaded copy of the death certificate of the deceased Govindasamy is marked as Exhibit A2. A perusal of Exhibit A2 shows that the deceased Govindasamy died on 10.03.1978 at the age of 83 years at Keelkuppam, Uthangarai. The downloaded copy of the death certificate of Mangammal is marked as Exhibit A3 and a perusal of the same shows that

Mangammal W/o. Govindasamy died on 25.05.1981. The original death certificate of Mariyappan, S/o.Kandhasamy Mudali is marked as Exhibit A4 and a perusal of the same shows that he died on 28.06.2006. The Exhibit A5 is the Patta issued in the name of Govindasamy for S.No. 156/11 along with the notice issued under section 9 of the Tamil Nadu Survey and Boundaries Act, 1923. The plaintiff has marked photocopies of the family cards issued in 2005 and present one as Exhibit A6 and Aadhar card of the plaintiff as Exhibit A7. The Exhibits A2, A3, A4 prove the deaths of the said deceased Govindasamy and his wife Mangammal and the father of the plaintiff namely Mariyappan. A perusal of the Exhibit A6 series show that there are no other legal heirs to the deceased and the absence of any name other than that of the heirs of the plaintiff show absence of other legal heirs. The plaintiff has marked the photostat copy of his Aadhar card as exhibit A7 which shows that the father name of the plaintiff as Murugan and he is a resident of Keelkuppam village. The plaintiff has also examined one Kandan as PW2 who has also testified to the support of the averments in the plaint. The PW2 who has testified to be residing at the neighbourhood and has testified that he knows the facts of death of the deceased Govindasamy and his wife and the father of the plaintiff and also testified that there are no issues to the deceased Govindasamy. However, the plaintiff has not produced any document with respect to the defendants 1 to 3 who are also alleged to be the legal heirs of the deceased Govindasamy. The plaintiff failed to even produce the photostat copies of aadhar cards of the defendants 1 to 3 to show their identity or relationship with the plaintiffs or the deceased Govindasamy or Mariyappan. Hence, this Court finds that the plaintiff failed to prove the relationship of the defendants 1 to 3 with the deceased.

7. The plaintiff has effected paper publication calling for objection from the public for the declaration claimed by the plaintiff and this Court has received no objection so far. The defendants have remained absent and did not contest the suit. A

perusal of the Exhibit A1 shows that there is no objection received by the 4th defendant from existing legal heirs and the only reason for rejection of the legal heirship certificate by the 4th defendant is that the plaintiff is a class III legal heir to the deceased. The plaintiff has proved the death of the said Govindasamy and subsequent demise of his wife and the father of the plaintiff. Hence, this Court finds no reason to reject the claim of the plaintiff with respect to the relief of declaration for himself.

8. However, with respect to the relief of mandatory injunction to issue legal heirship certificate, the Honourable Madras High Court in in **V. Kamatchi v. State of Tamil Nadu**¹ has observed as follows:

“....6. While holding so, I would like to point out that the plaintiff was totally unjustified in making a prayer to mandate the Tahsildar to issue legal heirship certificate. Such portion of the prayer is untenable and that should be eschewed.

7. It is a well settled proposition of law that the legal heirship certificates issued by the Tahsildar are not under any statute and he is also not the competent authority, legally. Only for administrative purpose, they are issuing such certificates, over which, the Courts are not concerned. Whenever there arises any dispute, such legal heirship certificates issued by the Tahsildar are having no back up of the law. As such, that prayer has to be deleted.....”

9. The issuance of legal heirship certificate is an official administrative act of the 1st defendant and a mandatory injunction cannot be issued directing the 1st defendant to issue legal heirship certificate in favour of the plaintiff. The plaintiff is at best to apply for legal heirship certificate paying the prescribed fee with support of this decree. Hence, the relief of mandatory injunction is rejected and disallowed.

1 Judgment of Honourable Madras High Court dated 03.07.2012 in C.R.P.NPD.No. 2421 of 2012.

Result:

10. *As a result, based on the foregoing discussion and the findings, the suit is partly decreed without cost as follows:*

(1) *The plaintiff alone is declared as the legal heir of the deceased Govindasamy.*

(2) *The relief of declaration as against the defendants 1 to 3 is rejected and this suit is partly dismissed.*

(3) *The relief of mandatory injunction directing 4th defendant to issue legal heirship certificate is refused and the suit is partly dismissed.*

(4) *The plaintiff is directed to bear own cost of in the suit.*

This judgment was dictated to the typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 29th day of September 2023.

District Munsif
Uthangarai

Annexure**Plaintiff side evidence:**

Plaintiff side witnesses:

P.W.1 : Thiru. Murugan (Plaintiff)

P.W.2 : Thiru. Kandan

Plaintiff side Exhibits:

Exhibit	Date	Document	Remarks
A1	16.08.2022	Memorandum issued by 4 th defendant	Original
A2	30.06.2022	Death certificate of Govindasamy	Downloaded Copy
A3	30.06.2022	Death certificate of Mangammal	Downloaded Copy
A4	29.11.2021	Death certificate of Mariyappan	Original
A5	26.02.1991	Patta No. 50	Original
A6	--	Family card (2 in number)	Photostat Copy (compared with original)
A7	--	Aadhar card of the plainiff	Photostat Copy (compared with original)

Defendant side evidence

Defendant side witnesses: Nil

Defendant side Exhibits: Nil

Court Documents: Nil

District Munsif
Uthangarai