

IN THE HIGH COURT OF KARNATAKA, BENGALURU
DATED THIS THE 10TH DAY OF NOVEMBER, 2021

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BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO.36890 OF 2018(GM-RES)

BETWEEN:

SMT. B. Y. VEENA
W/O. LATE M. P. BASAVARAJ,
AGED ABOUT 41 YEARS,
WORKING AS TEACHER,
R/O. KELLUR GRAMA,
HALASE POST, HALASE HOBLI,
MOODAGERE TALUK,
CHIKKAMANGALORE DISTRICT-577 101.

...PETITIONER

(BY SRI. NARAYAN MAYYAR, ADVOCATE FOR
SRI. S R HEGDE HUDLAMANE, ADVOCATE)

AND:

TAHASILDAR/DEPUTY TAHASILDAR
KASABA HOBLI,
MUDIGERE TALUK, MUDIGERE,
CHIKKAMANGALORE DISTRICT-577 101.

... RESPONDENT

(BY SRI. VINOD KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
SECURE THE RECORDS AND QUASH THE 3 IMPUGNED
ENDORSEMENT ISSUED BY THE RESPONDENT, DATED
2.6.2018, AS PER ANNEXURE-F, G, H.

THIS PETITION COMING ON FOR PRELIMINARY
HEARING THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioner is knocking at the doors of Writ Court for assailing the Endorsements all dated 02.06.2018 copies whereof are at Annexures F, G & H respectively, whereby her request for the issuance of Heirship Certificate has been rejected; all the Endorsements have a single line of reasoning namely, "Petitioner is not residing at Village Kallur presently".

2. After service of notice, the respondent having entered appearance through the learned AGA, opposes the writ petition on the ground of availability of alternate remedy in terms of Circular dated 09.08.2017; according to this Circular, appeal lies before the Assistant Commissioner; however, the same is not stated in the impugned Endorsements.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter as under and for the following reasons:

a) The impugned Endorsements were issued on 02.06.2018; the Writ Petition was filed on 25.8.2018 and now more than three years have lapsed; these

Endorsements are in a printed format; they do not tell the poor citizen that she has a right of appeal against the same, and that is how she has landed in the Writ Court; this important information was required for taking a pragmatic decision as to whether she should avail the appellate remedy or go for the writ remedy, the latter being arguably expensive in terms of time, money & energy.

b) Every statutory authority should tell the citizen as to the availability of remedy of appeal or revision in law against its order and also the period of limitation prescribed therefor; when that is not disclosed in the order that comes eventually to the Writ Court for challenge, the answering respondent whose action is put in challenge shall not be heard to say that the writ petitioner has an alternate remedy and he should therefore be relegated to the same; every citizen has an indefeasible right to information of the kind and that the corresponding public duty heavily lies on the authorities concerned; in fact, this Court has been noticing several such cases that are piling up in the docket here, in the absence of citizens being not told about the availability of statutory or departmental remedy; costs need to be imposed on the erring authorities whose impugned acts drive the citizens to this court,

unnecessarily when they could have availed other remedies.

c) The ground stated in the impugned Endorsements that the petitioner is not presently residing at the Village Kallur is not shown to be admissible in the framework of the Circular in question as a ground for denying Heirship Certificate; it has long been settled by the Apex Court in **MOHINDERSINGH GILL VS. CHIEF ELECTION COMMISSIONER**, (1978) 1 SCC 405, that the validity of orders made by the statutory authorities has to be adjudged on the basis of reasons assigned in the very order itself and that, such reasons cannot be supplied by way of affidavit or objection; otherwise an order wrong at the beginning when made may gain artificial legality by the reasons subsequently supplied.

In the above circumstances, this writ petition succeeds; a Writ of Certiorari issues quashing all the impugned Endorsements; the respondent - Tahsildar is directed to issue the Heirship Certificate to the petitioner within four weeks failing which he shall personally pay her Rs.1,000/- per day of delay brooked.

The Registry shall send a copy of this order to the Chief Secretary, Government of Karnataka, Bangalore to notify to all the departments about the requirement of stating in their orders as to the availability of remedy of appeal or revision or the departmental recourse, in terms of extant law.

Now, no costs.

**Sd/-
JUDGE**

Bsv