

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.31481 of 2015
and
M.P.No.1 of 2015

Joma

.. Petitioner

vs

The Executive Officer
Nagojanahalli Town Panchayat
Krishnagiri District

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned proceedings of the respondent passed in Aa.Thi.Mu.Na.Ka.No.147/2015 dated 18.8.2015, and quashing the same and consequently, directing the respondent to register the petitioner's husband's death in the register and also issue a death certificate to the petitioner.

For Petitioner : Mr.V.Bharathidasan

For Respondent : Mr.P.Sanjai Gandhi
Additional Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that she is the wife of Late V.Sathyanandam and according to her, he was a permanent resident of Velampatti in Nagojanahalli, Pochampalli Taluk, Krishnagiri District, and was working as a Conductor in the services of the Tamil Nadu State Transport Corporation, Kumbakonam Division and he died due to heart attack, during the course of employment on 25.7.2012, and subsequently, the mortal remains was taken to his native village at Velampatti and was cremated as per the customs, on 26.7.2012.

3.The petitioner would further state that due to oversight, her husband's death was not registered and therefore, an application in Cr.M.P.No.3752 of 2015 was filed before the Court of District Munsif cum Judicial Magistrate, Pochampalli, to register his death under Section 13(3) of the Birth and Death Registration Act, 1969 read with G.O.Ms.No.658, Health Planning Department, dated 15.6.1987, and the said Court after recording

the evidence of the petitioner, who was examined as P.W.1, and one Arulmeri, who was examined as P.W.2, and after perusal of the evidence and the case records, has directed the respondent herein to register the death of her husband in terms of the Government Order referred to above.

4.The grievance expressed by the petitioner, is that in spite of such an order, the death of her husband has not been registered and in this regard, she has submitted a representation dated 4.8.2015, to the respondent and it was rejected by the respondent on the ground that the death occurred at Chennai and such a certificate can be obtained only from the authority, within whose jurisdiction the place of death falls, and challenging the legality of the said order, she came forward to file this writ petition.

5.The learned Counsel appearing for the petitioner, would submit that admittedly, the respondent herein was also arrayed as respondent in Cr.M.P.No.3752 of 2015 filed by the petitioner for registering the death of her husband, before the Court of District Munsif cum Judicial Magistrate, Pochampalli, and a positive order was also passed on 15.7.2015, and in compliance of the said order, the respondent is bound to register the death of her husband and prays for appropriate orders.

6.Per contra, Mr.P.Sanjai Gandhi, learned Additional Government Pleader, who accepted notice on behalf of the respondent, would submit that admittedly, the husband of the petitioner died at the Government Hospital, Tambaram, Chennai and therefore, the factum of death is to be registered only by the jurisdictional Zonal Office of the Corporation of Chennai and the respondent was right in rejecting the request made by the petitioner, and prays for dismissal of this writ petition.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.It is an admitted fact that the respondent was put on notice before the passing of the order by the jurisdictional Magistrate directing the registration of the death of the petitioner's husband and it is an inter-party order. The respondent-local body did not make a challenge to the said order and therefore, between the petitioner and the respondent, the said order has become final and the respondent is bound to obey the same.

9.A perusal of the order dated 15.7.2015, passed by the Court of the District Munsif cum Judicial Magistrate, Pochampalli, in Cr.M.P.No.3752/2015, would also disclose that apart from the petitioner examined as P.W.1, one Arulmeri was also examined as P.W.2 and Exs.P1 to P8 were marked and taking into consideration the documentary evidence only, the said Court has passed the order ordering registration of the death of the petitioner's husband.

10. Therefore, in the light of the above facts and circumstances, this Court is of the considered view that the impugned order warrants interference.

11. In the result, the writ petition is allowed and the impugned order dated 18.8.2015, passed by the respondent, is set aside and the respondent is directed to register the death of the petitioner's husband in compliance of the order dated 15.7.2015, made in Cr.M.P.No.3752/2015, on the file of the Court of the District Munsif cum Judicial Magistrate, Pochampalli and is further directed to complete the said exercise and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nsv

To:

The Executive Officer
Nagojanahalli Town Panchayat
Krishnagiri District.

+ 1 cc to Mr.R. Sanjai Gandhi, Advocate SR.54849
+ 1 cc to Mr.V. Bharathdasan, Advocate Sr.54285

W.P.No.31481 of 2015

KJI (CO)
EU 15.10.15

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