

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.36847 of 2015

Lakshmiammal

[PETITIONER]

Vs

The Commissioner
Hosur Municipality
Hosur, Krishnagiri District.

[RESPONDENT]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent herein to register the death of the petitioners Husband Thiru.Kannappan as Civil Dead in the register maintained by the respondent pursuant to the Judgment and Decree passed in O.S. No.209/2009 dt 23.8.2010 on the file of the Learned District Munsif Court, Hosur, Krishnagiri District and consequently direct them to issue the Death Certificate of petitioners Husband.

For Petitioner ..Mr.E.Kannadasan

For Respondents ..Mr.R.Rajeswaran
Spl.Govt.Pleader

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.R.Kannadasan, learned Counsel appearing for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondent.

3.The petitioner has filed this Writ Petition, for a direction to the respondent to register the death of her husband as Civil Death in the Register maintained by the respondent, pursuant to the Judgment and Decree passed in O.S.No.209 of 2009 dated 23.08.2010, on the file of the learned District Munsif Court, Hosur, Krishnagiri District.

4.The petitioner sought for a declaration that her husband is civilly dead, for which purpose, the petitioner approached the Civil Court in which the petitioner has impleaded the employer of her husband as the sole defendant. The Suit was decreed as prayed for. Armed with the decree, now the petitioner seeks for a direction to the Commissioner of the respondent Municipality to register the death.

5.However, it has to be pointed out that the respondent is not a defendant in the Suit. Therefore, the decree will not bind him. Further, if the petitioner wants a death certificate or legal heirship certificate, then the petitioner has to implead such of those authorities and file a Suit against them and the decree obtained against the employer of the petitioner's husband will not come to the assistance of the petitioner for the relief sought for in the writ petition. However, if the petitioner initiates separate proceedings by way of Suit against the Revenue Officials and the Municipal officials as well as the Registrar of Births and Deaths, by filing a Suit, the petitioner can rely upon the Judgment in O.S.No.209 of 2009, dated 23.08.2010, as a document.

6.In the light of the above, liberty is given to the petitioner to file an appropriate Petition/Suit before the Court, impleading the Revenue Officials and Municipal Officials, the Registrar of Births and Deaths as defendants and seek for a declaration that her husband is civilly dead. In the said Suit, the petitioner is entitled to rely upon the Judgment in O.S.No.209 of 2009, dated 23.08.2010, on the file of the District Munsif Court, Hosur, Krishnagiri District, as one of the Plaint documents.

The Writ Petition is disposed of accordingly. No costs.
rpa

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To
The Commissioner
Hosur Municipality
Hosur, Krishnagiri District.

+ 1 cc to Mr.E.kanndasan, Advocate SR 63491

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prk9/12

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