

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3220 of 2014

T.Pushparaj

... Petitioner

Vs.

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai -600 003.
- 2.The Zonal Health Officer,
Zone XIII, Adyar,
Corporation of Chennai,
Chennai -600 020.
- 3.The Zonal Health Officer,
Zone XII,
Corporation of Chennai,
No.1, New Street,
Alandur, Chennai -600 016.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to consider and dispose of the representation dated 30.10.2013 to register the death of Rajammal, Wife of Thangamani died on 16.01.2008, who lastly resided at No.9/5, First Main Road, Netaji Colony, Velacherry, Chennai 600 042.

For Petitioner : Mr.G.Gubendhiran
For Respondents : Mr.C.Ravichandran

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to consider and dispose of the representation dated 30.10.2013 seeking to register the death of one Rajammal, who died on 16.01.2008.

2. The case of the petitioner is that his mother Rajammal died on 16.01.2008 due to Cardio-respiratory arrest and

her dead body was buried on 17.01.2008 at St. Thomas (Garrison) Church, St. Thomas Mount, Chennai-600 016, according to Indian Christian customs and rites. Subsequently, the petitioner obtained certificate for the same from the Superintendent of Garrison Church Cemetery on 20.03.2012 and he approached the second respondent requesting to register the death of his mother, but he was instructed to approach the third respondent herein. Accordingly, he approached the third respondent. However, there was no response, which compelled him to issue a legal notice dated 26.06.2012 to the Commissioner of Corporation of Chennai as well as to the Chairman and Commissioner of Alandur Municipality. In the mean while, the third respondent herein sent a reply dated 09.07.2012 to the petitioner stating that as the petitioner approached the authority after expiry of one year from the date of death of his mother, he has to obtain appropriate orders from the First Class Magistrate, as per Section 13(3) of the Registration of Births and Deaths Act, 1969 and thereafter, he has to make an application to register the death of his mother at the office of Zone -13, Adyar, Corporation of Chennai. However, the petitioner made a representation dated 30.10.2013 to the respondents seeking to register the death of his mother. Since no order has been passed by the respondents, he has filed the present writ petition for the above stated relief.

3. Learned counsel for the petitioner submitted that the petitioner has been driven from pillar to post for registration of the death of his mother. However, the respondents are shifting their burden on others and they are not inclined to issue death certificate to the petitioner.

4. Per contra, learned standing counsel appearing for the respondents submitted that the petitioner ought to have submitted the application to register the death of his mother within one year from the date of death, but he approached the authority, after expiry of one year. In such circumstances, he has to get appropriate orders from the First Class Magistrate as per Section 13(3) of the Registration of Births and Deaths Act, 1969 and thereafter, make an application to register the death of his mother. Thus, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents and perused the materials placed before this court.

6. Admittedly, the petitioner's mother died on 16.01.2008 and the petitioner made the application for registering his mother's death after expiry of one year from the date of death. In that event, as rightly pointed out by the learned standing counsel appearing for the respondents, the petitioner ought to have approached the First Class Magistrate

for appropriate orders, in the light of Section 13(3) of the Registration of Births and Deaths Act, 1969 and thereafter, he has to submit an application to the authority concerned to register the death of his mother. For better appreciation, the said section is extracted hereunder:

"Section 13(3): Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate, after verifying the correctness of the birth or death and on payment of the prescribed fee."

7. When that being the legal position, this Court is of the view that no useful purpose would be served, if a direction is granted to the second respondent to dispose of the petitioner's representation dated 30.10.2013, as prayed for in this writ petition. Therefore, this Court is inclined to dismiss this writ petition.

8. Accordingly, the writ petition is dismissed, however, with liberty to the petitioner to work out his remedy before the appropriate forum in the manner known to law. No costs.

rk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai 600 003.
- 2.The Zonal Health Officer,
Zone XIII, Adyar, Corporation of Chennai,
Chennai 600 020.
- 3.The Zonal Health Officer,
Zone XII, Corporation of Chennai,
No.1, New Street, Alandur, Chennai 600 016.

KR/8/6/16

W.P.No.3220 of 2014