

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6502 of 2016

P.Alamelu

.. Petitioner

Vs.

1. The Commissioner,
Salem Corporation,
Salem-636 007.

2. The Registrar,
Birth & Deaths,
Salem City Municipal Corporation.

3. Sidhan

4. Umashankar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation, dated 21.01.2015 and issue Death Certificate in accordance with law within a time frame.

For Petitioner : Mr.M.Vaidyanathan

For Respondents : Mr.P.Sanjay Gandhi,
Addl.G.P. for RR-1 and 2
No appearance for R-3
Mr.T.Murugamanickam for R-4

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation, dated 21.01.2015 and issue Death Certificate in accordance with law within a time frame.

2. In the affidavit filed in support of the Writ Petition, it is stated by the petitioner that her mother Mrs.E.Lakshmi passed away on 21.12.2014 at the age of 87 years and her death ceremony was done on 22.12.2014. The petitioner made application on 05.01.2015 to the respondents 1 and 2, along with document issued by the Salem Corporation at the time of the petitioner's mother's funeral, to register the death of the petitioner's

mother and issue the Death Certificate and she sent the said application through Registered Post. When the petitioner made an enquiry about the non-registration of the petitioner's mother's death, she was informed that the third and fourth respondents raised an objection that the petitioner's mother late Mrs.E.Lakshmi died in 2012 and there was another objection that the petitioner's mother is not the wife of late Mr.Elumalai. It is further stated by the petitioner that her mother had been given divorce by her father when the petitioner was three years old.

3. It is further stated by the petitioner that she filed a suit for partition against the fourth respondent and others, in O.S.No.467 of 2012 and in I.A.No.433 of 2012, she mentioned by oversight and inadvertently in the affidavit that she is the only daughter of late Mr.Elumalai and his wife late Lakshmi and this averment made by her in the said I.A.No.433 of 2012 was amended by filing I.A.No.689 of 2014 on the file of Second Additional Sub-Court, Salem.

4. The petitioner has further stated that in the judgment and decree in O.S.No.546 of 2005 passed by the learned Additional District Munsif, Salem, also, it was observed that the petitioner's mother was the wife of late Mr.Elumalai (petitioner's father). In spite of repeated requests, no action is taken by the respondents 1 and 2 to register the death of her mother. Therefore, the petitioner made a representation, dated 21.01.2015, by enclosing necessary documents, to issue the Death Certificate in respect of her mother. Since no action is taken, the petitioner has filed this Writ Petition for the above relief.

5. Heard both sides. Learned counsel for the fourth respondent opposed the prayer made in the Writ Petition, as the petitioner has not given the correct particulars about the death of her mother.

6. In my considered view, when the petitioner has already applied for registration of her mother's death and also sought for Death Certificate by enclosing necessary documents, the respondents 1 and 2 should either register her mother's death and issue Death Certificate or pass appropriate orders, based on records, but the respondents 1 and 2 cannot keep the matter pending for a long time.

7. Hence, considering the factual aspects of the matter, without going into the merits of the case, the second respondent is directed to consider the said representation of the petitioner, dated 21.01.2015, conduct enquiry, give an opportunity of personal hearing to the petitioner and necessary parties, including the respondents 3 and 4 herein and thereafter pass appropriate orders and dispose of the said representation,

on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the second respondent to decide the same.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cs
To

1. The Commissioner,
Salem Corporation,
Salem-636 007.
2. The Registrar,
Birth & Deaths,
Salem City Municipal Corporation.

+1cc to Mr.T. Murugamanickam, Advocate, S.R.No.19547
+1cc to Mr.M. Vaidyanathan, Advocate, S.R.No.19449

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CNR(CO)
Eu 22.04.16

सत्यमेव जयते

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