

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2018

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.10575 of 2012

Valliammai

.. Petitioner

Vs.

1.The Government of Tamilnadu,
rep. by the Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Thiruvarur District,
Thiruvarur.

3.The Revenue Divisional Officer,
RDO Office,
Mannargudi,
Thiruvarur District.

4.The Tahsildar,
Taluk Office,
Thiruthuraipoondi,
Thiruvarur District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of Mandamus to direct the respondents to pay the compensation of Rs.2 lakhs to the petitioner for the death of her father Sri. Rasu, S/o.Nagamuthu in terms of G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008 together with interest at the rate of 9% per annum from the date of death till the amount is paid to the petitioner.

For Petitioner .. Mr.S.Sadasivam

For Respondents.. Mr.T.M.Pappiah

ORDER

The writ petitioner herein, has approached this Court, seeking the following relief:

"To issue a Mandamus to direct the respondents to pay the compensation of Rs.2 lakhs to the petitioner for the death of her father Sri. Rasu, S/o.Nagamuthu in terms of G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008 together with interest at the rate of 9% per annum from the date of death of her father till the amount is paid to the petitioner'".

2. Petitioner belongs to the downtrodden scheduled caste community. Her father Sri.Rasu was residing in Ezhilur Village, Thiruthuraipoondi Taluk, Thiruvarur District. During the months of November-December 2008, the Nagapattinam District and other neighbouring areas were affected by a severe cyclone and also a heavy flood and many people were affected by the flood and cyclone and evacuated to the relief centres. The petitioner's father was also evacuated and located in Ezhilur Flood Relief camp. Unable to bear the severe cold and due to flood situation, the petitioner's father died on 06.12.2008, in the relief camp itself. The death of the petitioner's father was duly informed to the local police and revenue authorities through the Village Administrative Officer and an FIR was also registered by the Village Administrative Officer before the Thiruthuraipoondi Police Station on 07.12.2008. The body was sent to post mortem and on receipt of post mortem certificate, final rites were performed. According to the petitioner, the death of her father was reported in the local new paper.

3. The Government originally announced a compensation of Rs.1,00,000/- to the families of the victims, who died during the natural calamity from the Calamity Relief Fund. The said amount of Rs.1,00,000/-, subsequently, enhanced to Rs.2,00,000/- vide G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008. Immediately after the death of her father, the petitioner submitted a representation on 10.12.2008, seeking for compensation for the death of her father due to the cyclone and flood, which affected the place in which the petitioner's father was living.

4. Since, no reply was forthcoming, the petitioner sent reminders on 01.04.2009 and subsequently on 19.08.2009. Thereafter, a representation was also made to the Hon'ble Chief Minister's Cell on 12.05.2010. In response to the representation, the third respondent by communication dated 20.05.2010, addressed to the Tahsildar, Thiruthuraipoondi, the fourth respondent herein to enquire into the matter and inform the same to him. The petitioner has also approached the

Tahsildar, the fourth respondent herein, but she could not find out the status of her pending request seeking compensation. At this stage, the fourth respondent by communication dated 27.07.2010 has informed the petitioner that her representation has been forwarded to the second respondent herein, the District Collector, Thiruvavur District, Thiruvavur for further action in the matter. However, no response was forthcoming. In the said circumstances, the petitioner has sent a detailed representation on 06.07.2011 to the Hon'ble Chief Minister's Cell and even before that a legal notice was also sent on 15.03.2011. In spite of several representations and legal notice to the authorities concerned, till the date of filing of the present writ petition, no action was forthcoming from them nor any decision was communicated to the petitioner in this regard. Therefore, the petitioner is before this Court by way of the present writ petition seeking for issuance of a mandamus.

5. The learned counsel for the petitioner would submit that the post mortem report was confirmed that the petitioner's father died due to cold condition, in which, he was exposed to a old age and therefore, he was entitled to being compensated from the Government, since his death was due to natural calamity. Although several representations have been submitted promptly by the petitioner in the year 2008 itself, till date no decision has been taken one way or the other and whenever, the petitioner approached the authority concerned, she was informed that the matter was under consideration.

6. Upon notice Mr.T.M.Pappiah, the learned Special Government Pleader entered appearance for the respondents and made his submissions. The facts as stated by the petitioner in the affidavit cannot be seriously disputed by the learned Special Government Pleader appearing for the respondents, as the same were borne by the records. The First Information Report and the Post Mortem Report clearly pointed out the fact that the petitioner's father died due to natural calamity. However, for some reason, the authorities have not taken prompt action in paying the compensation to the petitioner, who is admittedly the only legal heir of the deceased. The petitioner having renewed her request periodically, however, the respondents have not provided the compensation as payable under the Government Orders for several years without any reason. It appears that the facts of the case have not been disputed and therefore, this Court is of the considered view that the death of the petitioner's father ought to be construed as one arising out of natural calamity and therefore, the petitioner being the only legal heir of the deceased was entitled to the compensation in terms of G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008.

7. Although, the petitioner has promptly submitted representation seeking compensation within a few days from the date of death of her father, the same has been kept pending before the authorities concerned, without any action being taken and without compensating the petitioner under the Government Order as aforesaid. In the present case, from the materials placed on record, it could be seen that the petitioner's father admittedly died due to natural calamity, particularly, in flood relief camp and therefore, he is entitled to benefit envisaged in terms of G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008. This Court does not see any justification for dragging the matter for over a period of nine years by the authorities concerned. Such inaction on behalf of the authorities concerned, cannot be countenanced in law for the simple reason that the death of the petitioner's father unimpeachably proved to be one arising out of natural calamity. Therefore, this Court is of the view that being the legal heir, the petitioner is entitled to the benefit as contemplated in the aforesaid Government Order. Further, the non payment of compensation for several years, after the death of the petitioner's father would necessarily attract reasonable interest as the petitioner has been deprived of due, just and prompt compensation due to the death of her father.

8. In view of the above, this Court directs the respondents to pay compensation of Rs.2,00,000/- to the petitioner in terms of G.O.Ms.No.705, Revenue(NC-II) Department dated 08.12.2008 or with reference to any other such beneficial Government Orders, which is in force as on date, within a period of eight weeks from the date of the receipt of a copy of this order. The amount of compensation which is due and payable shall carry an interest @ 9% from the date of filing of the present writ petition till the date of actual payment.

9. The writ petition is disposed of, accordingly. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government of Tamilnadu,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Thiruvarur District,
Thiruvarur.

3.The Revenue Divisional Officer,
RDO Office,
Mannargudi,
Thiruvarur District.

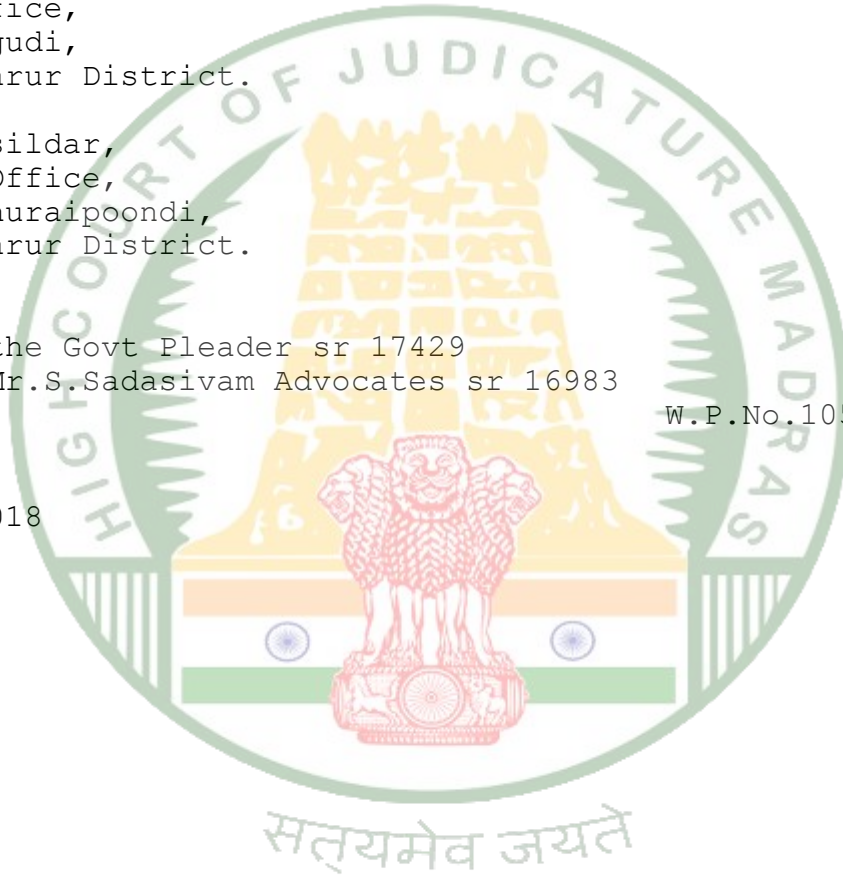
4.The Tahsildar,
Taluk Office,
Thiruthuraipoondi,
Thiruvarur District.

+1 cc to the Govt Pleader sr 17429

+1 cc to Mr.S.Sadasivam Advocates sr 16983

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