

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.4237 of 2020
and
WMP No.5006 of 2020

Mrs.Rukmani

...Petitioner

vs

The Tahsildar,
RDO Office Perur,
44-c, Siruvani Main Road,
Perur,
Coimbatore 641 010.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records and quash the proceedings of the respondent in Application Number TN-720190109661 09/01/2019 and consequently issue directions to the respondent to issue the legal heir certificate.

For Petitioner : Mr.C.D.Johnson

For Respondents : Mr.PV.Senthilkumar
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the proceedings of the respondent dated 09.01.2019, wherein and whereby the petitioner's application seeking for issuance of legal heirship certificate was rejected on the reason that the Death Certificate of the deceased was not produced by the petitioner.

2. Heard both sides.

3. It is stated by the petitioner that her husband viz., K.Anbalagan has gone missing from 08.02.2006 and his whereabouts are not known to the petitioner. It is further stated that a complaint was given before the Inspector of Police, J-1 Guindy on 17.02.2008, registered as Crime No.242 of 2008 under the

caption 'Man Missing'. It is further stated that on investigation, the police has also issued Non-Traceable Certificate to the petitioner. Based on those document, the petitioner sought for issuance of legal heirship certificate by presuming that her husband, having gone missing from 08.02.2006 onwards, is a person to be declared as civilly dead.

4. If the petitioner's husband has gone missing and his whereabouts are not known and traceable, the petitioner is entitled to seek for a declaration from the competent Court of law that her husband is to be declared as civilly dead, provided the statutory period of such missing is pleaded and proved by the petitioner before such Court. In this case, the petitioner has not obtained such decree. Therefore, the respondent will not be in a position to issue legal heirship certificate as prayed by the petitioner. Consequently, the petitioner has first to approach the Civil Court and got a decree and thereafter, approach the second respondent for issuance of legal heirship certificate based on such decree. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to work out her remedy before the competent Civil Court and after obtaining such decree, she can approach the respondent and seek for issuance of legal heirship certificate. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri

To

The Tahsildar,
RDO Office Perur,
44-c, Siruvani Main Road,
Perur,
Coimbatore 641 010.

+1 cc to Mr.C.D.Johnson, Advocate, S.R.No.23041

+1 cc to the Government Pleader, S.R.No.23215

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KS (CO)
RN (22/05/2020)