

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.6667 of 2020

Mrs.B.Amutha

..Petitioner

.v.

1. The District Collector,
O/o.The District Collector,
Coimbatore District,
Coimbatore 641 018.
2. The Commissioner,
Coimbatore Corporation,
Coimbatore 641 018.
3. The Tahsildar,
Coimbatore North Taluk Office,
Gandhipuram,
Coimbatore 641 018.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to herein to consider the representation of the petitioner dated 03.02.2020 to issue death certificate show as to permit this petitioner to made eligible for applying for marital status as widow.

For Petitioner : Mr.A.Arun Kumar

For R 1 & R 3 : Mr.P.Senthilvel
Additional Government Pleader

For R 2 : Mr.V.Jayaprakash Narayanan
Government Pleader

O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner on 03.02.2020 and to issue a Death Certificate to the petitioner in order to enable her to apply for a widow pension.

2.The case of the petitioner is that she married one Bala Jagadish in the year 1991. According to the petitioner, both of them were living together till in the year 1999 and there were two children out of the said wedlock. The further case of the petitioner is that the husband of the petitioner left to office on 01.01.1999 and thereafter, he never returned back. The petitioner has made all her efforts to find his whereabouts and she was not able to get any information. The petitioner has also given a complaint before the concerned Police and a man missing FIR has also been registered.

3.The petitioner had applied to the respondents seeking for a Death Certificate of her husband on the ground that he has not been heard off for more than 21 years and therefore, he must be presumed as died under the provisions of 108 of the Indian Evidence Act, 1872. Since the representation was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

4.Heard Mr.A.Arun Kumar, learned counsel appearing for the petitioner and Mr.P.Senthilvel, learned Additional Government Pleader appearing for respondents 1 & 3 and Mr. V.JayaprakashNarayanan, learned Government Pleader appearing on behalf of the 2nd respondent.

5.The grievance that has been expressed by the petitioner cannot be decided by the respondents. It is a grievance that has to be agitated only before a Competent Civil Court. The date and time of disappearance of the husband of the petitioner is a matter of evidence and not presumption and the person claiming it must establish the same before the Competent Civil Court. Useful reference in this regard can be made to the judgment of the Hon'ble Supreme Court in Lic of India .v. Anuradha reported in [2004 10 SCC 131] and Saroop Singh .v. Banto & Others reported in [2006 3 LW P 6]. This position of law has been clearly settled by the Hon'ble Supreme Court in these judgments.

6.In view of the above, the respondents cannot be directed to consider the representation made by the petitioner, who is seeking for a Death Certificate. The petitioner has to necessarily approach the Competent Civil Court and seek for a

necessary declaration by letting in evidence. Except, giving such a liberty, no further orders can be passed by this Court.

This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The District Collector,
O/o.The District Collector,
Coimbatore District,
Coimbatore 641 018.
2. The Commissioner,
Coimbatore Corporation,
Coimbatore 641 018.
3. The Tahsildar,
Coimbatore North Taluk Office,
Gandhipuram,
Coimbatore 641 018.

+1cc to M/s.A.ArunKumar, Advocate, Sr.No.23269
+1cc to Government Pleader, Sr.No.23674

W.P.No.6667 of 2020

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RK(CO)
GS(09/06/2020)