



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2020**

CORAM

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD) .No.17336 of 2020

J.Raja Jeya Singh

.. Petitioner

Vs.

1.The District Collector,
Kanniyakumari District, Nagercoil.

2.The District Revenue Officer,
Collectorate Campus,
Kanniyakumari District,
Nagercoil.

3.The Sub-Collector/
The Revenue Divisional Officer,
Padmanabhapuram,
Kanniyakumari District.

4.The Registrar,
Birth and Death Registration Office,
Thuckalay, Kanniyakumari District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 3rd respondent in Aa2/O.P.No.112/2018 dated 03.08.2018 and the Consequential order of the 2nd Respondent in Na.Ka.No.:G1/42463/2018, dated 20.11.2018 and quash the same as illegal and consequently direct the respondents forthwith to register the death of the brother of petitioner's father namely D.Mariyadasan who expired on 12.03.1934 in the Birth and Death Register maintained by the 4th respondent.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondents : Mrs.M.Rajeswari
Government Advocate

ORDER

(This Matter was heard through the Video Conference)

This Writ Petition has been filed challenging the order dated 03.08.2018, passed by the third respondent, rejecting the

<https://hcservices.ecourts.gov.in/hcservices/>



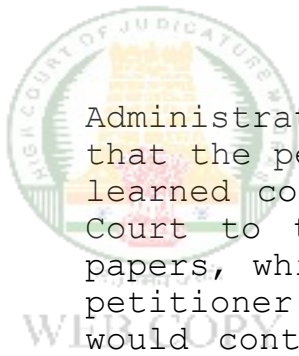
petitioner's application seeking for issuance of Death Certificate for his uncle Mr.D.Mariyadasan, who died on 12.03.1934.

2.Heard Mr.R.Pon Karthikeyan, learned counsel for the petitioner and Mrs.M.Rajeswari, learned Government Advocate , who accepts notice on behalf of the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.It is the case of the petitioner that Mr. D. Mariyadasan is his uncle (father's brother), who died as a bachelor at the age of 16 years on 12.03.1934. It is the case of the petitioner that earlier, the death certificate of Mariyadasan was not obtained. Hence, the petitioner applied for issuance of death certificate for Mariyadasan in the month of April 2017 under Section 13(3) of the Tamil Nadu Registration of Birth and Death, 1969. It is the case of the petitioner that the third respondent sought for report from the Village Administrative Officer, Thuckalay, to cause legal enquiry about the death of Mariyadasan. It is also the case of the petitioner that revenue records of his late uncle Mariyadasan as well as his father to prove that the mother of both of them is one and the same, was also produced before the third respondent. However, according to the petitioner, by the impugned order dated 03.08.2018, the third respondent based on the negative report of the Executive Officer, Vilavoor Town Panchayat, rejected the application, despite the fact that the Village Administrative Officer, Thuckalay, vide his report dated 07.03.2018, has confirmed that the deceased Mariyadasan died on 12.03.1934 and he is the petitioner's uncle. It is the case of the petitioner that though the report of the Village Administrative Officer dated 07.03.2018, is reflected in the order, the same has not been considered by the third respondent. According to the petitioner, the impugned order passed by the third respondent is arbitrary and violates the principles of natural justice as no sufficient opportunity was granted to him to contradict the negative report of the Executive Officer, Vilavoor Town Panchayat. Further, it is the contention of the petitioner that the Executive Officer, Vilavoor Town Panchayat has deliberately given a negative report, since the petitioner has instituted a suit against him in O.S.No.78 of 2017, on the file of the District Munsif Court, Padmanabhapuram, pertaining to some other dispute. According to the petitioner, vindictively, the Executive Officer, Vilavoor Town Panchayat, has given a negative report. In such circumstances, this writ petition has been filed.

5.The learned counsel for the petitioner drew the attention of this Court to the impugned order and would contend that though the Village Administrative Officer's report dated 07.03.2018 is reflected as Serial No.3, the same has not been considered by the third respondent under the impugned order. The learned counsel for the petitioner also drew the attention of this Court to the Village

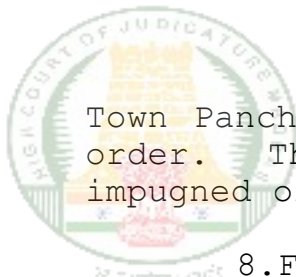


Administrative Officer's report dated 07.03.2018, which confirms that the petitioner's uncle D. Mariyadasan, died on 12.03.1934. The learned counsel for the petitioner also drew the attention of this Court to the photographs filed as documents in the typed set of papers, which will reveal that the name of the deceased uncle of the petitioner Mr. Mariyadasan is found in the cemetery. Therefore, he would contend that the impugned order has been passed arbitrarily and has violated the principles of natural justice, by not affording sufficient opportunity to the petitioner, to rebut the report of the Executive Officer, Vilavoor Town Panchayat, which is the basis for passing the impugned order.

6.Per contra, the learned Government Advocate for the respondents would submit that the impugned order has been passed in accordance with law after considering all the documents available on record.

7.This Court has perused and examined the materials available on record. As rightly pointed out by the learned counsel for the petitioner, the Village Administrative Officer's report is mentioned as serial number 3 in the reference column in the impugned order dated 03.08.2018. Though the same is referred to, the said document has not been considered by the third respondent under the impugned order. The third respondent has relied upon the report of the Executive Officer, Vilavoor Town Panchayat, for the purpose of coming to the conclusion that the deceased Mariyadasan is not the uncle of the petitioner and he never died on 12.03.1934. The impugned order does not also reveal as to whether the copy of the said report was given to the petitioner. The Village Administrative Officer's certificate dated 07.03.2018, confirms that Mr.Mariyadasan is the uncle of the petitioner and he died on 12.03.1934. While that be so, when there are two different documents, one confirming the death of Mariyadasan on 12.03.1934 and the other contradicting the same, the petitioner must have been given sufficient opportunity by the third respondent before passing any final order. Only then, the petitioner would have been able to rebut the report of the Executive Officer, Vilavoor Town Panchayat. Further, it is contended by the petitioner that he had already instituted a suit against the Executive Officer, Vilavoor Town Panchayat, pertaining to another dispute in O.S.No.78 of 2017 on the file of the District Munsif Court, Padmanabhapuram. While that be so, there is a possibility that out of vindictiveness an adverse negative report may have been given by the Executive Officer against the petitioner. All these factors must have been given due consideration by the third respondent while passing the order. But as seen from the impugned order, the same has not been done so by the third respondent. This Court is of the considered view that the principles of natural justice has been violated by the third respondent as sufficient opportunity has not been granted to the petitioner to raise all objections available to him under law with

<https://hse.judgeservices.gov.in/hse/judgeservices/> negative report of the Executive Officer, Vilavoor



Town Panchayat, which is the basis for the passing of the impugned order. Therefore, this Court is of the considered view that the impugned order is arbitrary and it has to be set aside.

8.For the foregoing reasons, the impugned order dated 03.08.2018, passed by the third respondent, rejecting the petitioner's application seeking for issuance of Death Certificate for his uncle Mr.D.Mariyadasan, who died on 12.03.1934, is hereby quashed and the matter is remanded back to the third respondent for fresh consideration. The third respondent shall pass final orders on merits and in accordance with law, after giving sufficient opportunity to the petitioner to raise all his contentions available with him under law, including grant him the right of personal hearing, within a period of twelve weeks from the date of receipt of a copy of this order.

9.With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

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/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector, Kanniyakumari District, Nagercoil.

2.The District Revenue Officer, Collectorate Campus, Kanniyakumari District,
Nagercoil.

3.The Sub-Collector/ The Revenue Divisional Officer,
Padmanabhapuram, Kanniyakumari District.



4.The Registrar, Birth and Death Registration Office,
Thuckalay, Kanniyakumari District.

+1 CC to M/s.R. PON KARTHIKEYAN, Advocate (SR-23584[F] dated
02/12/2020)

+1 CC to M/s.GP (SR-24286[F] dated 07/12/2020)

W.P (MD) .No.17336 of 2020

02.12.2020

PM (CO)

NR (11/12/2020) 5P : 7C