

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.5864 of 2021

K.Madhiyazhagan

.... Petitioner

Vs

1.The Director of Medical Education,
Tamilnadu Health & Family Welfare Department,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600 010.

2.The District Collector,
District Collectorate,
Singaravelarmaligai,
Chennai - 01.

3.The Tahsildar,
Perambur Taluk,
Chennai North District.

4.K.Vaishnavi Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 3rd respondent to conduct local enquiry and issue Family Friend Relationship Certificate for Organ Transplant between the petitioner Mr.Mathiyazhagan and the donor Mr.R.Kumaran without affidavit from the 4th respondent, within the time frame fixed by this Hon'ble Court.

For petitioner .. Mr.P.Arumugavel

For Respondents .. Mr.V.Shanmuga Sundar,
Special Government Pleader for R1 to R3

ORDER

This Writ Petition has been filed for a Mandamus seeking for direction to the third respondent to conduct local enquiry and issue Family Friend Relationship Certificate for organ Transplant between the petitioner Mr.K.Madhiyazhagan and the donor Mr.R.Kumaran without affidavit from the fourth respondent within a time frame to be fixed by this Court.

2. The liver transplantation needs to be done to the petitioner as his liver is presently beyond repair. The petitioner claims that Mr.R.Kumaran is a family friend and he is willing to donate his liver to the petitioner. According to the petitioner for undergoing liver transplantation he has to submit documents which includes the relationship certificate between the petitioner and the donor issued by the revenue authorities. The petitioner has given a representation on 13.01.2021 to the official respondents, requesting them to issue a relationship certificate. However, the same has not been issued since the donor Mr.R.Kumaran has not submitted his affidavit from his wife, as the fourth respondent herein has to give her no objection for the organ transplantation. According to the petitioner, there is a matrimonial dispute between Mr.R.Kumaran and his wife, the fourth respondent herein, which is a subject matter of HMOP No.325 of 2019 before the Family Court at Madurai. In view of the dispute, Mr.R.Kumaran is unable to obtain the consent affidavit from his wife, the fourth respondent herein. The petitioner has also sent a reminder letter on 02.03.2021 to the third respondent for issuance of relationship certificate between the petitioner and his donor Mr.R.Kumaran. According to the petitioner, despite the said reminder, the third respondent has not issued the relationship certificate. In such circumstances, this Writ Petition has been filed before this Court.

3. Heard Mr.P.Arumugavel, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondents 1 to 3.

4. Since, adverse orders are not going to be passed against the fourth respondent, notice to the 4th respondent is dispensed with. The relief sought for in this Writ Petition is an innocuous one. The petitioner requires liver transplantation from a person named Mr.R.Kumaran (Donor) on an emergency basis to his present liver condition. The petitioner will have to satisfy the statutory documentation requirements with the official respondents and one of the requirements is the relationship certificate between the petitioner and his donor Mr.R.Kumaran. The relationship certificate will have to be issued by the third respondent. It is contended by the petitioner that the consent affidavit is required from Mr.R.Kumaran's wife for the purpose of issuing the relationship certificate by the third respondent. Since, there is a matrimonial dispute between Mr.R.Kumaran and his wife, the same could not be obtained by Mr.R.Kumaran. The petitioner has filed the following documents before this Court :

a) Divorce petition filed by the fourth respondent against her husband/ Mr.R.Kumaran (Donor).

- b) Relationship certificate issued to similar patient and donor
- c) Medical Report of the petitioner
- d) Declaration affidavit of the petitioner
- e) Declaration affidavit of donor
- f) Declaration affidavit of donor's father
- g) Declaration affidavit of donor's mother
- h) Declaration affidavit of donor's sister
- i) Medical fit certificate for liver transplantation for the petitioner

5. The aforementioned documents filed before this Court establishes the petitioner's case that he requires immediate liver transplantation and also proves that excepting for the donor's wife, other family members have given their consent for transplantation of Mr.R.Kumaran's liver on the petitioner.

6. No prejudice will be caused to the respondent, if the petitioner's representation seeking for relationship certificate for organ transplantation between the petitioner Mr.K.Madhiyazhagan and the donor Mr.R.Kumaran is considered on merits and in accordance with law without insisting for consent affidavit from the fourth respondent. Considering the emergency, the representation of the petitioner will have to be considered by the third respondent expeditiously.

7. For the forgoing reasons, this Court directs the third respondent to consider the petitioner's representation dated 13.01.2021, requesting the third respondent to issue a relationship certificate between the petitioner Mr.K.Madhiyazhagan and his donor Mr.R.Kumaran without insisting for consent affidavit from the fourth respondent and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner, within a period of three days from the date of receipt of a copy of this order.

8. With the above said direction, the Writ Petition is disposed of . No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lpp

To

1.The Director of Medical Education,
Tamilnadu Health & Family Welfare Department,
No.162, Periyar E.V.R.High Road,
Kilpauk, Chennai - 600 010.

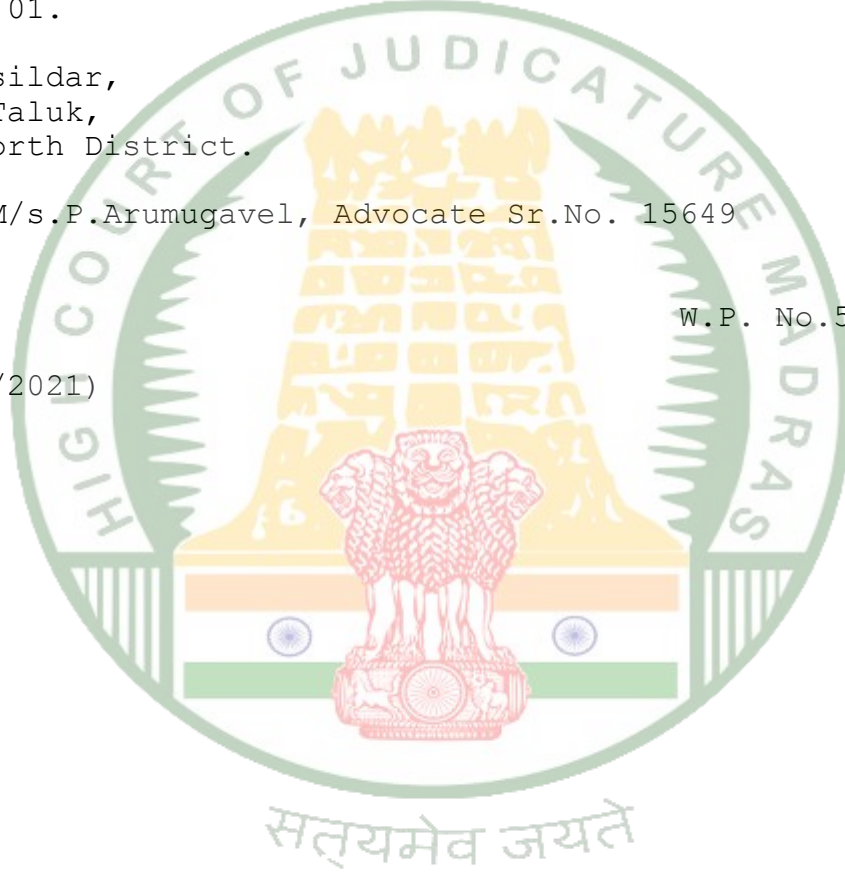
2.The District Collector,
District Collectorate,
Singaravelarmaligai,
Chennai - 01.

3.The Tahsildar,
Perambur Taluk,
Chennai North District.

+1 cc to M/s.P.Arumugavel, Advocate Sr.No. 15649

W.P. No.5864 of 2021

NRL (CO)
RMP (11/03/2021)



WEB COPY