



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.13034 of 2021

S.Umadevi

... Petitioner

Vs

1.The Executive Officer – Births and Deaths
Office of the Registrar,
Appakkoodai Town Panchayat,
Bhavani Taluk,
Erode District.

2.Ms.Rajamani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent herein to enter the name of the petitioner as the wife of her deceased Husband, Selvakumar by cancelling the name of the 2nd respondent fraudulently entered in the Death Certificate dated 26/02/2021 bearing Regn.No.D-2021-33-3656-000014 issued by the 1st respondent in respect of her husband Selvakumar who died on 19/02/2021 by considering the representation of the petitioner dated 26/03/2021.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.K.M.D.Muhilan
Government Advocate for R1

ORDER

The writ petitioner has approached this Court seeking for a direction to the 1st respondent to consider the representation made by the petitioner on 26.03.2021 and to carry out the correction in the death certificate that was issued on



26.02.2021 and to incorporate the name of the petitioner as wife of the deceased Selvakumar.

2.The case of the petitioner is that she married one Selvakumar on 09.02.1997 and out of the said wedlock, two female children were born in the year 1998 and 2000 respectively. To substantiate this claim, the petitioner has filed the Marriage Invitation, Family Card and also the Birth Certificates of both the daughters.

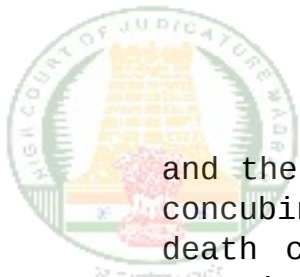
3.The further case of the petitioner is that her husband Selvakumar developed an illegal intimacy with the 2nd respondent and started living with her. While he was staying with the 2nd respondent, he died on 19.02.2021. The 2nd respondent thereafter had made an application for death certificate and a certificate has been issued by the 1st respondent on 26.02.2021 by showing the name of the 2nd respondent as the wife of the deceased Selvakumar.

4.The petitioner made a representation to the 1st respondent on 26.03.2021 to delete the name of the 2nd respondent from the death certificate and to issue a fresh death certificate by showing the name of the petitioner as the wife of the deceased Selvakumar. Since the same was not considered by the 1st respondent, the present writ petition has been filed before this Court seeking for appropriate direction.

5.Heard Mr.S.Senthil, learned counsel appearing on behalf of the petitioner and Mr.K.M.D.Muhilan, learned Government Advocate appearing on behalf of the first respondent.

6.The power and jurisdiction that is vested on the 1st respondent for correcting or cancelling an entry made in the death certificate can be traced under Section 15 of the Registration of Births and Deaths Act, 1969 r/w Rule 11 of the Tamil Nadu Registration of Births and Deaths Rules, 2000. A careful reading of the provisions shows that the 1st respondent can only correct clerical or formal errors or any erroneous entry made in the certificate which is caused due to fraud or improper information provided to the 1st respondent.

7.In the present case, the grievance of the petitioner is that she is the legally married wife of the deceased Selvakumar



and the 2nd respondent at the best can be characterised only as a concubine and therefore, her name should not be reflected in the death certificate as the wife of the deceased Selvakumar. The question is whether the 1st respondent can undertake an exercise to determine who is the legally married wife of the deceased Selvakumar.

8.The provisions that have been mentioned supra does not give any scope for the 1st respondent to conduct an enquiry and determine the legally wedded wife of the deceased Selvakumar. Admittedly, the deceased was living with the 2nd respondent and he had died in the house of the 2nd respondent and the 2nd respondent had made the application for the death certificate by claiming herself to be the wife and the 1st respondent has issued the death certificate.

9.The mere issuance of the death certificate by showing the 2nd respondent as the wife of the deceased Selvakumar will not sanctify or authenticate the relationship, if really the 2nd respondent is only the concubine of the deceased Selvakumar. The death certificate is issued only based on an application made by a person and particulars given by the concerned person. Therefore, when it comes to identifying the legally wedded wife, it is an exercise that can be gone through only before the competent civil court. The 1st respondent cannot adorn the role of the Civil Court and undertake this exercise.

10.In view of the above discussion, this Court is not inclined to grant the relief as sought for by the petitioner. It is left open to the petitioner to agitate her rights before the competent civil Court and establish that she is the legally wedded wife of the deceased Selvakumar.

11.This writ petition is disposed of accordingly. No Costs.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

ssr



To

The Executive Officer – Births and Deaths
Office of the Registrar,
Appakkoodai Town Panchayat,
Bhavani Taluk,
Erode District.

+1cc to M/s.Senthil, Advocate SR.No.38754

+1cc to the Government Pleader SR.No.38848

W.P No.13034 of 2021

PCH(CO)
RVM(25/08/2021)