



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 16676 of 2021

M.S.Selvakumar

... Petitioner

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003.

2. The Health Officer, Greater Chennai Corporation,
Zone-05, Division-60, Basin Bridge,
Chennai 600 003

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pass orders on the petitioner's application dated 31.03.2021 for registering the civil death of his father Mr.M.S.Sambandan, as per the judgment and decree dated 18.01.2021 passed in O.S.No.304 of 2020 by the learned I Assistant City Civil Court, Chennai, mentioning the date of presentation of the plaint viz., 03.01.2020, as the date of civil death and issue a death certificate to that effect.

For Petitioner : Mr.S.M.Muralidharan

For Respondents : Mr. P.Manojkumar

O R D E R

Mr.P.Manojkumar, learned counsel takes notices for the respondents. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself.

2.According to the petitioner, his father by name M.S.Sambandan was a renowned tamil scholar and he was found



missing on 25.09.2011. In this regard, a case in Crime No.1069 of 2011 was registered on the file of G1 Vepery Police Station, Chennai. However, his whereabouts were not known and hence, a non traceable certificate was issued by the police officials on 19.12.2018. The petitioner further stated that his father owned some movable and immovable properties and in order to maintain the same, the petitioner approached the civil court by filing a suit in O.S.No.304 of 2020 and obtained a decree dated 18.01.2021 declaring his father as attained civil death. Thereafter, he submitted an application dated 31.03.2021 to the first respondent for issuance of death certificate of his father, based on the civil court decree. The said application was forwarded to the second respondent for further action, but no action was taken on the same. On enquiry, the petitioner came to know that the said application was not processed, as the date of civil death was not mentioned in the civil court decree. Placing reliance on the circular issued by the Registrar General, India dated 26.09.2012 to all the Registrars of Births and Deaths, he made a representation dated 23.06.2021 to the first respondent, marking a copy of which to the second respondent, requesting to issue a death certificate of his father mentioning the date of filing of the plaint i.e., 03.01.2020 as his date of death. Finding no response on the same, the petitioner has come up with this writ petition, seeking a mandamus to the respondents to pass orders on the said application dated 31.03.2021, thereby registering the date of civil death of his father and issuing a death certificate to that effect.

3.The learned counsel for the petitioner submitted that under section 108 of the Indian Evidence Act, presumption about the death of a person is to be drawn, when the dispute is brought to the court and the death can be presumed on the date on which the suit is filed. It is further submitted that as per the circular dated 26.09.2012 bearing reference no.8/4/2011 VS (CRS) issued by the Registrar General of India to all the Chief Registrars of Births and Deaths, in the case of civil death, the date on which the plaintiff had approached the court, has to be mentioned as the date of death. Thus, according to the learned counsel, the respondents ought to have treated the date of presentation of the plaint as the date of civil death i.e., on 03.01.2020 and issued a death certificate to the petitioner, based on the civil court decree dated 18.01.2021 passed by the I Assistant City Civil Court, Chennai, in O.S.No.304 of 2020.



4. On the other hand, the learned counsel taking notice for the respondents fairly submitted that the respondents would consider the representation of the petitioner and pass orders, on merits and in accordance with law, within a time frame to be stipulated by this court.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court directs the respondents to consider the representation of the petitioner dated 31.03.2021 and pass appropriate orders, with regard to issuance of death certificate of his father, based on the civil court decree as well as the circular dated 26.09.2012 as referred to above. Such an exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order,

6. With the aforesaid direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mst

To

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai 600 003.
2. The Health Officer, Greater Chennai Corporation,
Zone-05, Division-60, Basin Bridge,
Chennai 600 003

W.P.No.16676 of 2021

GPL(CO)
SB(29/09/2021)