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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 25263 of 2021

V.Vijaya

...Petitioner

-Vs-

The Commissioner
O/o.Gobichettipalayam Municipality
Gobichettipalayam,
Erode-638 476

...Respondent

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or any other writ, directing the respondent to consider and pass order on the petitioners representation dated 01.11.2021 and issue fresh death certificate after due corrections of the column in permanent address and wife.

For Petitioner : Mr. R.Baskar

For Respondents: Mr. B.Anand
Learned Standing Counsel
for Gubichetty Palayam (Respondent)

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Mandamus, directing the respondent to consider and pass order on the petitioners representation dated 01.11.2021 and issue fresh death certificate after due corrections of the column in permanent address and wife and pass such or other orders to deem fit proper of this circumstances of the case and thus render justice.

2.The case of the petitioner is that the petitioner got married with Late. Vankiliyappan in the year 1991 who was married to Smt.Nachiammal. She died in the year 1987. Out of the wedlock, they had two daughters and one son. While being so, the Vankiliyappan married the petitioner in a temple at his native



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Eamur Village but the petitioner and her husband belongs to different communities and hence his children were objected and attempts were made to murder them. however they managed to escape from that situation and they left the Village and settled themselves at Gobichettipalayam to lead their matrimonial life peacefully without any difference of opinion. In such situation the petitioner husband namely Vankiliyappan suffered chronic ailments and he died on 14.09.2021 and thereafter, the petitioner performed the last rights to the Vankiliyappan. The petitioner made an application for receipt of the death certificate. Accordingly, the municipality issued a death certificate on 30.09.2021. Thereafter, the petitioner came to know that the official respondent had wrongly recorded Vankiliyappan's first wife's name instead of the petitioner's name. Hence the petitioner made a representation on 06.10.2021 for correction of the same in the death certificate and sent a reminder letter on 01.11.2021. Till date the same has not been considered. Hence the present writ petition is filed.

3.Learned counsel appearing for the petitioner submitted this Court may issue a direction to the respondent to consider petitioner's representation for making the necessary connection so that it could be used by the petitioner for effecting corrections in ration card and adhar card, etc.

4. However, the learned counsel appearing for the respondent submitted that the death certificate produced by the petitioner was the same which was applied by the legal heirs of the Vankiliyappan, who is daughter of his first wife . Based on the said application the death certificate was issued .

5.It is admitted by the petitioner herself that the name of the first wife of Vengiliappan is Nachiammal and that she died in the year 1987 and thereafter, it is alleged that the said Vengiliappan had married the petitioner. However, it is the claim of the petitioner that the first wife, viz., Nachiammal died in the year 1987 and that the marriage of the petitioner with the said Vengiliappan had allegedly taken place in the year 1991.

6.A perusal of the materials available on record reveals that the documents placed by the petitioner were taken into consideration before passing the impugned order. It is further evident from the said materials that no marriage certificate has been produced to vouch for the marriage of the petitioner with the deceased Vengliappan and in the absence of any material to prove that the petitioner is the 2nd wife of the said Vengiliappan, after the death of his first wife, viz., Nachiammal. Since the said issue is a disputed question of fact the same cannot be decided by this Court and the remedy



available to the petitioner is only to approach the Civil Court for necessary relief by placing relevant materials and this Court sitting under Article 226 of the Constitution cannot pass any affirmative direction.

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7. This Court does not find any infirmity in the order passed by the respondents and, accordingly, this writ petition fails and the same is dismissed. However, liberty is granted to the petitioner to file appropriate suit before the Civil Court for necessary relief. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner
O/o.Gobichettipalayam Municipality
Gobichettipalayam,
Erode-638 476

+1cc to Mr.R.Baskar, Advocate, S.R.No.61812

+1cc to Mr.B.Anand, Advocate, S.R.No.62164

W.P.No. 25263 of 2021

NRL(CO)
RGA(20/12/2021)