



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.4135 of 2022

WEB COPY

Valsala

... Petitioner

Vs.

1. The Superintendent of Police,
Kanyakumari District at Nagercoil.

2. The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, direct the 2nd respondent to issue legal heir certificate to the petitioner without insisting death certificate of her husband namely Lazar by considering her representation dated 25.01.2022.

For Petitioner	: Mr.A.Balakrishna for Mr.K.P.Narayanakumar
For Respondents	: Mr. D.Sasikumar Additional Government Pleader

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to issue legal heir certificate to the petitioner without insisting for the production of the death certificate of her husband namely Lazer by considering her representation dated 25.01.2022.

2.The case of the petitioner is that her husband is missing from 22.03.2008 onwards. The petitioner has also given a complaint to the police and an FIR has also been registered as man missing. It is also the case of the petitioner that in H.C.P.[MD]No.806 of 2009 by order dated 10.12.2009, passed by this Court, the missing of the petitioner's husband has been recorded. Thereafter, the petitioner has also filed a civil suit in O.S.No.244 of 2015 on the file of the I Additional District Munsif Court, Nagercoil for a declaration that her husband Lazer is presumed to be dead. By judgment and decree dated 01.11.2016 passed by the I Additional District Munsif Court, Nagercoil, the suit was decreed as prayed for by the petitioner. In



such circumstances, the petitioner has applied for legal heirship certificate by her application dated 25.01.2022 on the ground that her husband Lazer has been declared dead by a Civil Court decree. However, it is the case of the petitioner that the official respondents are insisting for the issuance of death certificate for Lazer which is not possible. Since the petitioner's application has not been considered till date, she has filed this writ petition.

3. Heard Mr.A.Balakrishnan, for Mr.K.P.Narayanakumar, learned Counsel for the writ petitioner and Mr.D.Sasikumar, learned Additional Government Pleader who accepts notice on behalf of the respondents.

4. The petitioner has filed the following in support of her claim that the petitioner's application seeking for issuance of legal heirship certificate for her husband Lazer has to be issued without insisting upon the death certificate of her husband Lazer:

- a) Order passed in H.C.P.[MD]No.806 of 2009 dated 10.12.2009 by this Court.
- b) Judgement and decree dated 01.11.2016 passed in O.S.No.244 of 2015 by the I Additional District Munsif Court, Nagercoil.
- c) Proceedings of the first respondent dated 03.11.2020, 26.12.2020, 05.02.2021, 01.03.2021 & 15.04.2021.
- d) Representation given by the petitioner to the second respondent on 22.04.2021.
- e) Representation given by the petitioner to the Revenue Divisional Officer, Padmanathapuram dated 20.05.2021.
- f) Proceedings of the first respondent dated 09.06.2021.
- g) Proceedings of the first respondent dated 20.09.2021.
- h) Proceedings of the first respondent dated 25.10.2021
- i) Family card.

5. As seen from the aforesaid documents / orders, it is clear that ever since 2008, the petitioner's husband Lazer has been found missing. The said fact is also recorded in the order dated 10.12.2009 passed by this Court in H.C.P.[MD]No.806 of 2009 and the declaratory decree has also been issued in favour of the petitioner declaring that the petitioner's husband Lazer is presumed to be dead in O.S.No.244 of 2015 dated 01.11.2016 on the file of the I Additional District Munsif Court, Nagercoil. Therefore, the respondents cannot insist upon the production of the death certificate for the purpose of considering the petitioner's application seeking for issuance of legal heirship certificate for her husband Lazer.

6. For the foregoing reasons, this Court directs the second respondent to consider the petitioner's application dated 25.01.2022 seeking for issuance of legal heirship certificate for her husband Lazer without insisting upon the production of the death certificate



of Lazer and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner within a period of twelve [12] weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

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 Superintendent of Police,
Kanyakumari District at Nagercoil.

2. The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-10660[F] dated 08/03/2022)

+1 CC to M/s.SPL.GP (SR-10957[F] dated 09/03/2022)

ORDER MADE IN
W.P. [MD]No.4135 of 2022
08.03.2022

SS/22.03.2022 : 3P/5C