



W.P(MD)No.88 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.88 of 2022

and

W.M.P(MD)No.75 of 2022

Sethuramalingam

... Petitioner

Vs.

1.The Sub Divisional Magistrate Cum
Revenue Divisional Officer,
Revenue Divisional Office,
Paramakudi,
Ramanathapuram District.

2.The Thasildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned order of the first Respondent vide his



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proceedings in Mu.Mu.4756/2019/P6 dated 13.01.2021 and quash the same as illegal and consequently direct the first respondent to register the death of the petitioner's father namely, Alagar on 24.01.1970.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.D.S.Nedunchezian - for R1 & R2
Government Advocate

ORDER

This writ petition has been filed by the petitioner herein seeking interference with the order of the first respondent/ Sub Divisional Magistrate cum Revenue Divisional Officer, Paramakudi, Ramanathapuram District, dated 13.01.2021 in Mu.Mu.4756/2019/P6 and directed the said first respondent to register the death of the father of the petitioner by name Alagar, who according to the petitioner died on 24.01.1970 and issue death certificate to the petitioner herein.

2. In the affidavit filed in support of the writ petition, the writ petitioner has stated that his father Alagar son of Muthuirullandi died on 24.01.1970 at his residence at Kulavipatti village, Paramakudi



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Taluk, Ramanathapuram District. The mother of the petitioner has also died. The petitioner also has 4 sisters namely, Lakshmi, Yasothai Poomayil and Vasantha. It is stated that the father died due to illness at the house of the petitioner herein. Owing to inadvertence, the death was not intimated to the authorities. It is stated that for transferring the revenue records of the ancestral property, the death certificate of the father and the legal heirship certificate are now sought by the authorities. The petitioner then filed application before the second respondent / Tahsildar at Paramakudi. The Tahsildar has directed the petitioner to file an application before the first respondent / Sub Divisional Magistrate cum Revenue Divisional Officer, Paramakudi, Ramanathapuram District. After the said application had been filed by the petitioner, there was an enquiry by the Village Administrative Officer and by the Revenue Inspector. The petitioner had enclosed the certificate from the VAO indicating that the father of the petitioner had died 24.01.1970. The Revenue Inspector had also recorded statements in that regard. However, the first respondent has rejected the application of the petitioner herein. Seeking interference with that particular order, the present writ petition has been filed.



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3. It is seen that as against that particular order there is an appeal provision available under Section 9(4) of the Registration of Births and deaths Act, 1970 before the District Collector. However, the period of limitation for filing such appeal is 30 days. It is only appropriate that the appellate authority examines since they are a fact finding Authority. The petitioner is therefore directed to file an appeal before the District Collector, Ramanathapuram. Such appeal has to be filed by the petitioner on or before 17.03.2023. If it is so filed then the District Collector, Ramanathapuram, may not put up the issue of limitation against the petitioner herein. The District Collector, while examining the papers may also keep in mind that in the year 1970 which is about 53 years back, when a death occurs in a Village, that particular point of time, Ramanathapuram District, was a remote District, there was not much sensitisation among the villagers to inform the Revenue Authorities or other authorities about the death. Those facts must be kept in mind by the District Collector. The fact that the petitioner has stated that his father died, will have to be given necessary weightage since no son will come forward to speak about the death of his own father. The petitioner had come and stated that the father died on 24.01.1970. The



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District Collector, Ramanathapuram, may also examine the sisters of the petitioner. As matter of fact the statements have also been recorded. The Village Administrative Officer, had also stated that the father had died on 24.01.1970. The District Collector must take himself back to the era of 1970 and understand the situation prevailing at that particular point of time and pass necessary orders.

4. It is pointed out that the Births and Deaths Act came into force only on 01.04.1970 and that the death occurred on 24.01.1970. These aspects may also be kept in mind by the District Collector and I am confident that he/she would appreciate that the death certificate is required for transfer of ancestral properties and also for the issuance of legal heirship certificate. Keeping all these factors in mind, the District Collector may pass necessary orders within a period of six weeks from the date of filing the appeal, which appeal has to be filed on or before 17.03.2023.



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5. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
NCC : Yes / No
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To

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C.V.KARTHIKEYAN, J.

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