

22.07.2024
Item No.1
Ct. No.15
S.A.

WPA 18212 of 2023

Mira Sinha & Anr.

-vs-

**The Principal Secretary, Urban Development and
Municipal Affairs Department & Ors.**

Ms. Mousomee Shome

Mr. Subhajit Das

...for the petitioners

Mr. Saikat Chatterjee

Mr. Puranjan Pal

...for Suri Municipality

Mr. Amal Kumar Banerjee

...for Rampurhat Municipality

Ms. Sumita Sarkar

...for Union of India

Mr. Jyoti Chatterjee

Ms. Mousumi Banerjee

...for the State

This writ petition is for issuance of a death certificate by the relevant Municipality on the basis of a judgement and decree dated April 27, 2022 passed in Title Suit No.28 of 2017 (Mira Sinha vs. State of West Bengal) by the Learned Civil Judge (Junior Division), Additional Court, Suri, Birbhum.

It is the grievance of the petitioners that by the aforesaid judgement and decree, the Civil Court declared that the husband of petitioner Lakhan Sinha had not been heard of for more than seven years by the persons who would naturally had heard of him had he been alive. Therefore, the Civil Court declared that Lakhan Sinha is no longer alive.

The said judgement and decree did not indicate the date of death of Lakhan Sinha or the place of death.

The petitioners as it appears approached Rampurhat Municipality for issuance of a death certificate of Lakhan on the basis of the aforesaid judgement and decree.

The Rampurhat Municipality, however, declined to issue the death certificate as prayed for by the petitioners.

It appears that the circulars dated September 26, 2012 and December 29, 2011 issued by the Ministry of Home Affairs of the Union stipulate that in case of declaration of death of a missing person by a Civil Court under Section 108 of Indian Evidence Act, 1872, the date of death should be presumed to be the date when the plaintiff approached the Civil Court and the place of death should be the territorial jurisdiction of the Civil Court.

In the present case, the plaint was filed on March 15, 2017 before the Learned Civil Judge (Junior Division), Additional Court at Suri, Birbhum within whose jurisdiction Suri Municipality falls.

In the aforesaid facts, I am of the view that Suri Municipality should issue the death certificate indicating the date of death of the husband of the petitioner no.1 as March 15, 2017.

Accordingly, this writ petition is disposed of with a direction upon the Suri Municipality to issue the death certificate as indicated above within a period of one month from the date of communication of this order.

The petitioners shall supply all relevant records including the judgement and decree of the Civil Court to the Municipality within a period of seven days from the date of communication of this order.

Accordingly, **WPA 18212 of 2023** is disposed of.

(Kausik Chanda, J.)