



W.P.(MD)No.10777 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10777 of 2024

S.Mahadevan

... Petitioner

versus

1. The Superintendent of Police,
Tirunelveli District.

2. The Inspector of Police,
Kallidaikuruchi Police Station,
Kallidaikuruchi,
Tirunelveli District.

3. The Inspector of Police,
Manimuththaru Police Station,
Manimuththaru,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to issue the Non Traceable Certificate to the petitioner based on the petitioner's representation dated 07.03.2023.



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For Petitioner : Mr.R.Subburaj

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

ORDER

This writ petition is filed for a Mandamus directing the respondents to issue a Non Traceable Certificate to the petitioner based on his representation dated 07.03.2023.

2. The petitioner is a senior citizen aged about 73 years. He claims that he purchased a land situated at Plot No.109, Gurupatham Nagar, Munnerpallam Village, Tirunelveli on 24.07.1976, by way of a registered sale deed No.1638/1978 on the file of SRO Melapalayam and now, he has lost the said registered sale deed document in No. 1638/1978, for which, he has submitted a representation before the respondent police on 07.03.2023. However, no action has been taken by the respondents so far. Therefore, the petitioner seeks a certificate that this document is not traceable so that he can get the certified copy from the Registration Department.



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WEB COPY 3. This issue has already been addressed by the Director General of Police in his Circular memorandum in RC No.2029209/General. 1(1)/2022, dated 01.04.2022.

4. The circular was issued pursuant to the direction of this Court in CrI.O.P.No.3307 of 2022. Several writ petitions are filed before this Court seeking direction to the police to issue non-traceable certificates that the original documents are misplaced and it could not be traced. Cases are also filed before this Court that by obtaining non-traceable certificates, certified copies of the said documents are obtained and with those certified copies obtained in the strength of Non-traceable certificates issued by police, forged documents are created. Therefore, this Court has issued directions in the above CrI.OP.No.3307 of 2022 based on which the circular was issued by the Director General of Police stipulating the procedure to be adopted with regard to issuance of non-traceable certificate and the same is extracted as under:



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“The following procedure should be adopted with regard to issuance of Non- traceable Certificate on receipt of petition relating to the loss of original land documents:

1.Petition should be preferred only by the legal owner or his power of attorney of the property.

2.The petitioner should furnish the following documents along with the petition:-

(i) 2 Certified copies of the document/s which is alleged to have been lost (obtained within a month prior to the presentation of the petition at the Police Station from the concerned Sub Registrar Office).

(ii) Recent photograph of the petitioner or that of his power of attorney.

(iii) Copy of Aadhar Card or Voter ID or Passport (No other Identity proof will be accepted).

(iv) News paper advertisements in original as mentioned in para 6.

(v) Undertakings mentioned in paras 7 and 8.

3.In case of death of the legal owner of the property, his or her legal heir should present the petition along with the following documents.-



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a) Death Certificate pertaining to the death of the legal owner issued by the competent Local body/ Municipality/Corporation authorities.

b) Legal Heir Certificate issued by the designated Revenue Authority to establish that the petitioner is the legal heir of the owner of the property.

4.In case of multiple legal heirs, No Objection Certificate obtained from the legal heirs other than the petitioner should be enclosed.

5.Encumbrance certificate (Digital or Manual) for the above property for the last 20 years or from the date of registration of missing document whichever is longer and it should be obtained from the concerned Sub Registrar Office only.

6.Original of the public advertisement given one in leading English and one in leading vernacular newspaper should be enclosed. The advertisement should have been published within 30 days prior to the presentation of the petition.

7.The petitioner should submit an undertaking along with the petition that no civil dispute or mortgage pertaining to the property document alleged to have been lost, is pending before any Court or Financial Institution.



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8. *The petitioner should also submit an undertaking along with the petition that if he/she furnishes any false information with regard to the property, whose document is alleged to have been lost, the petitioner or whoever abets the offence shall be liable for criminal prosecution under appropriate legal provisions. The petitioner should also furnish an undertaking that he/she shall handover the missing document if it is traced later. In that case, the Station House Officer should intimate about the tracing of the document to the concerned Sub Registrar Office.*

9. *On receipt of the petition, the Station House Officer (SHO) shall issue a CSR to the petitioner immediately.*

10. *The CSR should be issued only by the Station House Officer (SHO) and not by any other personnel in the Police Station.*

11. *If any shortfall in production of documents is noticed, (Documents mentioned in para-2) the Station House Officer (SHO) should intimate the same to the concerned petitioner in writing instructing him to produce the concerned documents within a week time.*

12. *Within three days from the receipt of documents in full and issuance of CSR, the Station House Officer (SHO) after personally satisfying himself, should send a letter*



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addressed to the Deputy Superintendent of Police / Assistant Commissioner of Police of the DCRB/ CCRB informing about the loss of document along with the following Certificate:

"Certificate"

"Certified that I have verified all the documents enclosed as mandated in the Chief Office circular memorandum in Rc.No2029209/Gen.1(1)/2022 dated 01.04.2022".

13.The DSP's/ACP's of DCRB/CCRB on receipt of papers shall publish the matter in Crime and Occurrence Sheet within a week from the date of receipt of the letter from the Station House Officers.

14.The publication in the Crime and Occurrence Sheet shall be sent to the concerned Station House Officers within three days from the date of such publication.

15.In the meantime, necessary action should be taken by the SHO to trace out the said original land documents. Enquiry should be conducted to find out whether the owners or the complainant had encumbered the land documents and by approaching the concerned S.R. for verification. [The purpose of compelling original document is to avoid double documentation].



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16. On receipt of copy of the Crime and Occurrence Sheet publication and if unable to trace out the said documents, the Station House Officers shall issue Non-traceable Certificate to the petitioner.

17. Henceforth, Non-traceable certificate with regard to loss of original land documents shall be issued only by the Station House Officer after adhering to the above procedure and the certificate should be issued to the petitioner after obtaining due acknowledgement and a copy of the same shall be sent to the concerned Sub Registrar Office. (Format of Not Traceable Certificate is enclosed in Annexure).

18. The Commissioners of Police in Cities and Superintendents of Police in Districts are requested to issue suitable instructions to the Station House Officers to adhere to the above procedure without any deviation. In case of any deviation in this regard, action shall be taken against the concerned police personnel.

19. The above circular shall be posted on the State Police Website and CCTNS Citizen Portal and also pasted in the 'Notice Board of all Police Stations.' ”

5. The respondent Police is expected to find out the genuineness of the complaint made by the petitioner and take further course of



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action based on the above circular in RC No.2029209/General.

1(1)/2022, dated 01.04.2022.

6. In view of the above, this writ petition is disposed of with a direction to the respondent police to take a decision as per the above circular within a period of eight weeks from the date of receipt of a copy of this order. No costs.

11.07.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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