



W.P.No.6865 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 27.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.6865 of 2025

P.MALAR

... Petitioner

Vs

1. THE DISTRICT COLLECTOR
CUDDALORE,
CUDDALORE DISTRICT.
2. THE TAHSILDR,
VEPPANTHATTAI TALUK,
PERAMBALUR DISTRICT.
3. MANIRATINAM
4. P.VIJAYAN
5. P.SHOBANA
6. P.AKILA

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the second respondent to issue legal heirship certificate of Paramasivam and without insisting “not traceable” certificate for man missing FIR within a time frame to be fixed by this Court.



WEB COPY



W.P.No.6865 of 2025

For Petitioner : Mr.T.Dharani

For R1 & R2 : Mr.R.Neelakandan
Additional Advocate General VIII
Assisted by Mr.P. Murthy
Government Advocate

ORDER

This writ petition is filed for a writ of mandamus, directing the second respondent to issue legal heirship certificate of Paramasivam and without insisting “not traceable” certificate for man missing FIR within a time frame to be fixed by this Court.

2. The learned counsel appearing for the petitioner, relied upon the judgment of this Court in ***R.Janaki Vs The Tahsildar & other in W.P.(M.D)No. 5252 of 2024***. In the said judgment, this Court considered all the relevant judgements and held that the insistence on a Civil Court decree need not be made with reference to the grant of a legal heirship certificate. In view of Section 34 of the Specific Relief Act, it was held that if there is a person to challenge the right or demand, a civil suit need to be filed.



W.P.No.6865 of 2025

Therefore, this Court held that even in the absence of the civil suit, the Tahsildar can consider the question of granting the legal heirship certificate.

3. The learned Additional Advocate General appearing for the first and second respondents would submit that a contrary view has also been taken in W.P.No.14233 of 2020 dated 28.10.2020.

4. Be that as it may, in the instant case, not even a man missing FIR has been lodged by the petitioner. In that view of the matter, I am afraid that the question of whether the petitioner's husband is really missing, if so from what date, whether it is due to a matrimonial problem or otherwise and whether he remains untraceable, are all matters that cannot be conclusively decided by the Tahsildar. Therefore, in the absence of both a complaint with reference to man missing and without any attempt to trace the person, it would not be appropriate for the Tahsildar to declare that the person is unheard of or remains untraceable for seven years and issue a legal heirship certificate. Therefore, in the facts and circumstances of the case and de hors the divergent views that have been taken, I am of the view that the Tahsildar cannot be



W.P.No.6865 of 2025

directed to grant a legal heirship certificate.

WEB COPY

5. With liberty to the petitioner to lodge a complaint and get it registered for the man missing case by mentioning the original date of missing and thereafter, approach the Civil Court for the grant of a decree regarding civil death, this writ petition stands disposed of. No costs.

27.02.2025

Neutral Citation: Yes/No
nsl

To

1. THE DISTRICT COLLECTOR
CUDDALORE,
CUDDALORE DISTRICT.
2. THE TAHSILDR,
VEPPANTHATTAI TALUK,
PERAMBALUR DISTRICT.



WEB COPY



W.P.No.6865 of 2025

D.BHARATHA CHAKRAVARTHY, J.

nsI

W.P.No.6865 of 2025

27.02.2025