



W.P.No.13305 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 15.04.2025

Coram:

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13305 of 2025

G.Rajasekar,
S/o.Govindarajlum,
No.M64, Tamil Nadu Housing Board,
Kurumbanchavadi,
Ariyalur North,
Ariyalur District.

... Petitioner

/versus/

The Tahsildar,
Ariyalur Taluk,
Ariyalur District.

... Respondent

Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the respondent in his proceedings No. Na.Ka.A1/5288/2024 dated 31.12.2024 and quash the same as unlawful, illegal and unconstitutional and consequently direct the respondent to issue the legal heirship certificate based on the petitioner's Application No.TN-7202410091296 dated 09.10.2024 submitted through E-service Centre before the respondent.



WEB COPY



W.P.No.13305 of 2025

For Petitioner : Mr.M.Mohamed Riyaz

For Respondents : Mr.R.Neelakandan,
Additional Advocate General,
Assisted by Mr.S.Balamurugan,
Government Advocate.

ORDER

The writ petition is filed challenging the order dated 31.12.2024. By the said the order, the prayer of the petitioner to issue legal heirship certificate was rejected.

2. Upon hearing the Learned Counsel for the petitioner and perusing the affidavit filed in support of the writ petition, the grievance of the petitioner is that the petitioner is the son of one Govindarajlu. The said Govindarajlu went missing from 14.04.2007. Already a man missing complaint has been registered in Crime No.149 of 2007 on the file of the Ariyalur Police station and he could not be traced out, even though 18 years have now passed. Therefore, by requesting the authorities by considering the civil death, the legal heirship certificate was prayed by the petitioner. It is the case of the petitioner that the petitioner G.Rajasekar and his sister Alamelu would be the sole surviving legal heirs, if the



W.P.No.13305 of 2025

civil death is presumed against the said Govindarajlu. Therefore, the respondents ought to issue legal heirship certificate in the name of the petitioner as well as the respondent. The impugned order erred in rejecting the same. Already the Madurai Bench of this Court has decided the issue in ***R.Janaki vs. Tahsildar (W.P.(MD).No.5252 of 2024)***, wherein it has been held that under all circumstances the insistence of getting a Civil Court decree need not be insisted upon. Therefore, the petitioner is before this Court.

3. When the matter came up for admission, the Learned Additional Advocate General taking notice on behalf of the respondent would submit that subsequently a contrary view has been taken in the other judgments. He would further submit that the specific guidelines in the form of G.O.(Ms).No.478, dated 29.09.2022 itself is issue wherein under in 3(2), the person shall be treated as dead only upon the protection of the order of the Competent Court declaring the person as dead. Though this case is a deserving one, since the person is gone missing from the year 2007, in view of the subsequent developments, in this case the petitioner can also approach the Civil Court for getting a decree. Now contra view has been taken in ***W.P.(MD).No.7390 of 2024 (R.Samathuvam vs. The District***



W.P.No.13305 of 2025

Collector and another).

WEB COPY

4. Considering the fact that the petitioner is of advanced age and said Mr.Govindarajlu is missing from the year 2007, this writ petition is disposed of on the following terms:

By virtue of the Government Order, the Tahsildar, Ariyular District is an interested party insisting that Civil Court decree have to be produced, the petitioner by including his sister as the plaintiff, shall file a suit before the jurisdictional Civil Court by arraying the Tasildhar, Ariyalur Taluk as the defendants and as and when such a civil suit is filed, the concerned Civil Court shall consider the issue as expeditiously as possible. Since the person is missing from the year 2007, the Court shall dispose of the civil suit, within a period of 3 months from the date of filing of the suit and as and when decree is passed by the civil court and produced before the first respondent and fresh application is made, the said application for legal heirship certificate shall be considered as expeditiously as possible and certificate be issued to the petitioner and his sibling as the surviving legal heirs of the said Govindarajlu.



W.P.No.13305 of 2025

WEB COPY

5. The writ petition is disposed of accordingly. There shall be no order as to costs.

15.04.2025

Neutral citation:No.
bsm

To,
1. The Tahsildar,
Ariyalur Taluk,
Ariyalur District.

2. The Government Pleader, High Court, Madras.



WEB COPY



W.P.No.13305 of 2025

D.BHARATHA CHAKRAVARTHY,J.

bsm

W.P.No.13305 of 2025

15.04.2025