



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 15.07.2025

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THE HONOURABLE **Mr. JUSTICE N. ANAND VENKATESH**

W.P.No.25678 of 2025

Mrs.Kanniammal

.. Petitioner

.Vs.

1.The District Collector
O/o.the District Collector
Tiruvannamalai District.

2.The Revenue Divisional Officer
O/o.the Revenue Divisional Officer
Tiruvannamalai District.

3.The Tahsildar
Chetpet Taluk Office
Chetpet, Tiruvannamalai District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the third respondent to consider the petitioner representation dated 25.03.2025.



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For Petitioner : Mr.M.Murugesan

For Respondents : Mr.T.M.Rajangam
Government Advocate

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the 3rd respondent to deal with the representation made by the petitioner on 25.03.2025, wherein the petitioner is seeking for issuance of death certificate and legal heirship certificate.

2.Heard Mr.M.Murugesan, learned counsel appearing on behalf of the petitioner and Mr.T.M.Rajangam, learned Government Advocate appearing on behalf of the respondents.

3.The specific case of the petitioner is that her husband went missing since 23.09.2012 and inspite of best efforts, he is not able to be traced. That apart, a



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complaint was lodged in this regard before the Sub Inspector, Mangalam Police Station, Chetpet Taluk, Tiruvannamalai District. The Sub Inspector of Police has also issued non-traceable certificate. Therefore, the petitioner was seeking for death certificate and legal heirship certificate before the respondents and since the same was not acted upon, a representation was given to the District Collector and the District Collector has forwarded the letter to the Taluk Office. Since no action was taken, the present writ petition has been filed before this Court.

4.The sum and substance of the grievance expressed by the petitioner is that her husband has gone missing from 23.9.2012 and till date he has not been traced and the complaint given to the police has also been closed on the ground that he is not traceable. Therefore, the petitioner wants the revenue authorities to assume that her husband is dead and gone and consequently, they must issue the death certificate and legal heirship certificate.

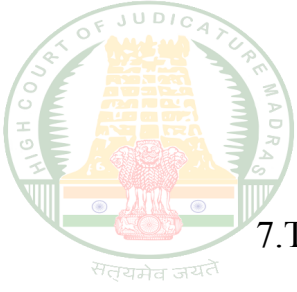
5.The relief as sought for by the petitioner is not sustainable. The petitioner is asking the revenue authorities to invoke Section 107 and 108 of the Indian



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Evidence Act (Section 110 and 111 of BSA 2023). These provisions raise a presumption that wherever a person is not heard of for seven years, he is presumed to be died. However, the time of death or his disappearance is only a matter of evidence and it is not a matter of presumption and the same can be only established before the competent Civil Court. It is the competent Civil Court which has to issue a declaration and the revenue authorities cannot presume/assume that the person is died and proceed to issue death certificate or legal heirship certificate. The law on this issue was made clear by the Apex Court in the judgment in **LIC of India .Vs. Anuradha** reported in **2004 10 SCC 131**. Even, the subsequent judgment of the Apex Court in **Saroop Singh .vs. Banto and Others** reported in **2006 3 LW 6** makes this position clear.

6. In view of the above, it is left open to the petitioner to approach the Civil Court and seek for such a declaration and based on the declaration decree passed by the Civil Court, seek for death certificate and legal heirship certificate. Except giving this clarity, no further orders can be passed in this writ petition.



7.This writ petition stands disposed of in the above terms. No costs.

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Index : Yes/No

Neutral Citation : Yes/No

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To

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N. ANAND VENKATESH, J.

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