



WP No. 29512 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 29512 of 2025

1. S.Rajkumar
S/o. P. Sakkarai

Petitioner(s)

Vs

1. The Tahsildar
Office Of The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District 636 905

2.The Revenue Divisional Officer
Harur Division,
Office Of The Revenue Divisional
Officer, Harur,
Dharmapuri District 636 903

3.The Inspector Of Police
A.Pallipatti Police Station,
Dharmapuri District

Respondent(s)



PRAYER

Directing the respondents to consider the petitioner's representation dated 24.06.2025 and consequently direct the 1st respondent to issue a legal heir certificate of Mr. P.Sakkarai S/o. Peramandaikoundar in respect of the petitioner, the petitioner's mother and his brother as P.Sakkarai's surviving legal heirs.

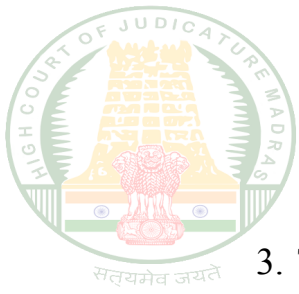
For Petitioner(s): Mr.S.Prabakaran
Senior Advocate
for Mr.MA.Gouthaman

For Respondent: Mr.G.Velu
Additional Government Pleader
for R1&2
Mr.V.Meganathan
Government Advocate (Crl. Side) for R3

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the 1st respondent to deal with the representation made by the petitioner on 24.06.2025, wherein the petitioner is seeking for issuance of legal heirship certificate of Mr.P.Sakkarai.

2. Heard Mr.S.Prabakaran, learned Senior Advocate for Mr.M.A.Gouthaman, appearing for the petitioner and Mr.G.Velu, learned Additional Government Pleader for the 1st and 2nd respondents and Mr.V.Meganathan, learned Government Advocate (Criminal Side) for the 3rd respondent.



3. The case of the petitioner is that he is the son of Mr.P.Sakkarai. The petitioner's father went missing on 19.07.2000 and thereafter, he has not been seen or heard by any member of the family or the community. A complaint was also given before the A.Pallipatti Police Station, Dharmapuri District and the complaint was taken on file in CSR.No.82 of 2019. The police thereafter did not take any steps and the whereabouts of the petitioner's father was not ascertained. The petitioner also made a publication in newspaper regarding missing person by providing all the particulars. However, it did not yield any result. In view of the same, the petitioner has come to a conclusion that the petitioner's father is dead and gone, and there is a presumption of Civil Death under 108 of the Indian Evidence Act.

4. The petitioner submitted a representation before the Tahsildar seeking for legal heirship certificate. The enquiry was conducted and the fact that the petitioner's father was not able to be traced and his whereabouts were not known was also spoken to by the local residents. The petitioner's father has gone missing for more than 24 years. There was absolutely no progress in the application submitted before the Tahsildar. In such circumstances, the present writ petition came to be filed before this Court for a direction to the 1st respondent to consider the representation and issue legal heirship certificate.

5. In the considered view of this Court, the 1st respondent is not the



competent authority to declare the civil death of the petitioner's father by rising the presumption under Section 108 of the Indian Evidence Act. This Court had an occasion to deal with the issue in WP.No.25678 of 2025 dated 15.07.2025

The relevant portions are extracted hereunder,

“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 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



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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 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



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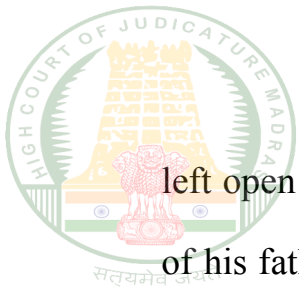
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only established before the competent Civil Court. It is the competent Civil Court which has to issue a declaration and the revenue authorities cannot presume/assume that the person is died and proceed to issue death certificate or legal heirship certificate. 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.”

6. In the considered view of this Court, it is only a competent Civil Court which can declare civil death, since such a presumption can be raised only before the Court and not before the Revenue Authority. In view of the same, it is



left open to the petitioner to file a suit for declaration to declare the civil death of his father. The Court before which such a suit is filed shall immediately take the suit on file and shall pass final judgment within a period of two months from the date of filing of the suit. Considering the fact that the Civil Court has to only complete the formality, the notice under Section 80 of CPC shall be dispensed with. This time frame is fixed, since all the relevant documents are already available and the Court must only examine some persons in the locality who have to speak about the fact that the whereabouts of the petitioner's father is not known inspite of best efforts made by the family. It will be to the benefit of the petitioner to get such a declaration from the Court, since it will stand the test of time, rather than a Revenue authority making such a declaration.

7. This writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

07-08-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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Pappireddipatti Taluk, Dharmapuri
District 636 905

2.The Revenue Divisional Officer

Harur Division, Office Of The
Revenue Divisional Officer, Harur,
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N.ANAND VENKATESH J.

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