

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CUDDALORE

Present: Selvi.B.Phebe, B.A.,LLB.,
Additional District Munsif, Cuddalore

Friday, the 14th day of August – 2026

O.S.No.56/2025

CNR.TNCD040000622025

1. D.Kalaivani
 2. M.Thenmozhi
 3. S.Thamilarasi
 4. S.Ramya
- ...Plaintiffs

-Vs-

1. The State of Tamil Nadu rep.by District Collector,
Cuddalore .
2. Tahsildar, Cuddalore,
3. The Commissioner, Cuddalore Corporation,
Cuddalore .

....Defendants

This suit came up for final hearing before this court on 22.07.2026 in the presence of learned Advocate Mr.K.Pasupathi Raja for plaintiffs, Government pleader for the D1, D2, learned Advocate Mr.R.Sankar for the D3, upon perusal of records and having stood over for consideration till this day, this court delivers the following:

JUDGMENT

The Suit for Declaring that the 1st plaintiff husband Dhamodharan has

attained Civil death, and declaring the plaintiff are the legal heir of deceased Dhamodharan and directing the defendants to issue death and legal heir certificate to the plaintiff's that they are the legal heir of deceased Dhamodharan by a decree of mandatory injunction and for cost.

2. The case of the plaintiffs in brief is as follows:

(i) The first plaintiff is the wife of Dhamotharan and Plaintiff's 2 to 4 are the daughters of Dhamodharan. The first plaintiff got married to Dhamodharan in 1990. Out of their wedlock plaintiffs 2 to 4 and one Nithya was on 15.04.1998. Since all the 4 children were girls Dhamodharan deserted the 1st Plaintiff and the children and went away on 28.08.2000. He never came back to the house and his whereabouts are not known till today. Thereafter the 1st Plaintiff alone looked after her family and raised her children. Nithya was employed at M/S. Accenture however she was met with an accident and was declared to be dead on 6.10.2024 at 11 P.M. For receiving her death benefits the legal heir certificate of deceased was needed. On application it was stated that the death certificate of her father Dhamodharan is needed. Hence the suit.

3. The Gist of the Written statement filed by the Defendant:

(i) This defendant was not aware about 1st plaintiff daughter, namely Neithya who died on 06.10.2024 and the plaintiff are put to strict proof the missing of deceased Dhamdharan even on 15.04.1998. As per the documents filed by the plaintiff it seems the said Dhamodharan ran away from the matrimonial

home even on 28.08.2000 and FIR was also registered at Cuddalore OT Police. As per the settle law if any person whereabouts is not known for the past 7 years and he would be declared as dead i.e.civil death and this defendant is ready to abide any direction issued by this Hon'ble Court. If this Court declare that the said Dhamodharan attained civil death and this defendant is ready to issue death certificate for the death of Dhamodharan and only 2nd defendant have got right to issue legal heir certificate for the death of Dhamodharan.

4. Records were perused and the following issues were framed:

1. Whether the Plaintiffs are entitled to the relief of declaration of civil death as prayed for?
2. Whether plaintiffs are entitled to the relief of declaration that they are the legal him of deceased Dhamodharan?
3. Whether Plaintiffs are entitled to the relief of mandatory injunction as prayed for ?
4. To what other reliefs are the parties entitled to ?

5. Witness PW1 is examined and Ex.A1 to Ex.A18 were marked on the plaintiff's side and Two more additional witnesses were examined as PW2 and PW3. Witness DW1 is examined, and ExB1 to ExB3 were marked on defendant's side and one more additional witness is examined as DW2

6. Heard both sides. Perused the records.

7. Analysis:

Issue No.: 1- 4:

(i) The case of the plaintiff is that Dhamodharan has deserted the 1st

plaintiff and his children on 28.08.2000. Till now his whereabouts are not known. Substantially Nithya, daughter of Dhamodharan died on 06.10.2024 in a road accident. For getting her legal heir certificate, the death certificate of Dhamodharan was sought for. Hence the plaintiff has filed the suit seeking declaration of civil death of Dhamodharan, further to declare the plaintiffs are the legal heirs of the deceased Dhamodharan and also to direct the defendants to issue death certificate and legal heir certificate of Dhamodharan. To prove their case the plaintiffs have relied on ExA1 to ExA8 and has examined PW1 to PW3.

(ii) At the outset, the relevant provision with regard to civil death are S. 110 and S. 111 of Bharathiya Sakshiya Adhiniyam 2023. It speaks of presumption as to civil death. The corresponding provision under Indian Evidence Act are S. 107 and S. 108. It reads as follows:

110. Burden of proving death of person known to have been alive within thirty years.—When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

111. Burden of proving that person is alive who has not been heard of for seven years.— When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

(iii) It is a settled principle of law that Section 108 is an exception or a proviso to the rule enacted in Section 107. Under Section 108, if it is proved that person as not heard of for seven years by such of those persons who would naturally have heard of him if he was alive, then the burden of proving that he is alive is shifted to the person who asserts it. Thus, under Section 108, there is a presumption of death, once it is proved that the person was not heard of for seven years. Before a presumption under Section 108 is raised an appropriate enquiry is to be held and it is permissible to show that the allegation that a person has not been heard of for over 7 years is not true and there is evidence to show that he is alive, or has been heard of within that period.

(iv) In the present case, the 1st plaintiff has relied on ExA7 and ExA8 to prove that Dhamodharan is nowhere to be heard of, for more than 20 years. ExA7 is the FIR dated 20.03.2025 in Cr.No.125/2025 stating that Dhamodharan has left the home on 28.08.2000 at 09:00AM. The FIR in Ex. A7 was filed on 23.03.2025 that is nearly 20 years after Dhamodharan has left home. ExA8 is the Certificate of VAO enquiry stating that Dhamodharan went missing on 28.08.2000. He further states that he enquired that to the villagers and have certified the same along with signatures of the villagers. The relevant excerpt from Ex. A8 is as follows:

“மேற்படி திருமதி கலைவாணி க.பெ.தாமோதரன் என்பவர் எண்,102/2
காமாட்சி அம்மன் கோவில் தெரு என்று முகவரியில் வசித்து வந்தார் அங்கு

சென்று விசாரணை செய்யும்போது மனுதாரரின் கனவர் 28.08.2000 முதல் காணவில்லை எனவும் பொது மக்களின் விசாரணையில் தெரியவருகிறது.”

(v) The VAO has also been examined as PW3 and he has deposed incongruence with **Ex. A8** as follows:

எனது விசாரணையில் தாமோதரன் எத்தனை ஆண்டுகளாக காணவில்லை என்று தெரிய வந்தது என்றால் வருடம் 2000லிருந்து சுமார் 25 ஆண்டுகள் காணவில்லை என்று தெரிய வந்தது.

(vi) Apart from these 2 documents the evidence of PW1 and PW2 corroborates the above statements and pleadings. PW2 is a villager who states that the Dhamodharan went missing before 25 years. The relevant excerpt is as follows;

தாமோதரன் எங்கு உள்ளார் என்றால் தெரியாது. எங்கள் ஊரில் நடக்கும் விஷேஷங்களில் கலந்துக்கொள்வாரா என்றால் இல்லை.முதல் வாதியின் கணவர் 2, 3, 4 வாதிகளின் தகப்பனார் தாமோதரன் கடந்த 25 வருடங்களுக்கு மேலாக காணவில்லை. அவரை கண்டுபிடிக்க வாதிகள் பல முறை முயற்சி செய்தும் அவர் எங்கு இருக்கிறார் என்பது வாதிகளுக்கு தெரியவில்லை. மேலும் உயிரோடு இருக்கிறாரா? இல்லையா? என்று தெரியவில்லை.

(vii) All the above documentary and oral evidences prove that Dhamodharan has left home in the year 2000 and was not heard of by near relatives till today. Hence presumption under S.111 of Bharathiya Sakshiya Adhiniyam corresponding Sec.108 of Evidence Act applies to the present case and

plaintiff has discharged her burden in proving that Dhamodharan was not heard of for more than 7 years.

(viii) Further to prove that the plaintiffs are the legal heirs of Dhamodharan, the plaintiffs have relied on Ex. A1 to A6. ExA1 is the Aadhar card of 1st plaintiff mainly Kalaivani which mentions her husband's name as Dhamodharan. EA2 is the Aadhar card of 2nd plaintiff namely Thenmozhi which mentions her father's name as Dhamodharan. ExA3 and ExA4 are the Aadhar card of 3rd and 4th plaintiff namely Tamilarasi and Ramya respectively.

(ix) ExA3 and A4 does not mention the name of the father but mentions their husband name. ExA5 is the Aadhar card of deceased Nithya. It mentions the father's name as Dhamodharan. ExA6 is the death certificate of deceased D.Nithya which mentions the date of death as 06.10.2024. Further the father's name is mentioned as Dhamodharan. Ex. A8 also states the legal heirs of Dhamodharan as follows:

"மனுதாரருக்கு நான்கு மகள்கள் உள்ளார்கள். 1. தேன்மொழி வயது 33
2. தமிழரசி வயது 30 3. ரம்யா வயது 18 4. நித்யா வயது 26 இதில்
இளைய மகள் செல்வி நித்யா கடந்த 06.10.2024 அன்று விபத்தில்
இறந்துவிட்டார் என்பதையும் தெரிவித்துக்கொள்கிறேன்."

(X) All the above documents prove that plaintiffs are the legal heirs of Dhamodharan. In view of all the above discussions, **Issue No. 1 to 3 are answered**

in favor of plaintiffs. As for Issue No. 4, parties are not entitled to any other reliefs.

In fine, suit is decreed without cost.

i) Declaring that the 1st Plaintiff's husband Dhamodharan has attained civil death.

ii) Declaring that the Plaintiffs are the legal heir of deceased Dhamodharan.

iii) Granting Mandatory Injunction directing the defendants to issue death and legal heir certificate to the Plaintiff's that they are the legal heir of deceased Dhamodharan.

Dictated by me and directly typed in the computer by Steno typist and printed out by her and corrected and pronounced by me in open court, on this day, the 14th day of August 2026.

Additional District Munsif,
Cuddalore.

List of Witnesses on Plaintiffs' side:

PW1	Thiru.Kalaivani, S/o.Dhamotharan
PW2	Thiru.Sathiesh, S/o.Muthamizhan
PW3	Thiru.Suresh, S/o.Krishnamoorthy

List of Documents on Plaintiffs' side:-

ExA1	-	Aadhar card of 1st plaintiff	Copy
ExA2	-	Aadhar card of 2nd plaintiff	Copy
ExA3	-	Aadhar card of 3rd plaintiff	Copy
ExA4	-	Aadhar card of 4th plaintiff	Copy
ExA5	-	Aadhar card of deceased Nithya.	Copy
ExA6	17.10.2024	Death certificate of deceased D.Nithya	Copy
ExA7	20.03.2025	The FIR dated 20.03.2025 in Cr.No.125/2025 stating that Dhamodaran	Copy
ExA8	-	VAO enquiry	Original

List of Witnesses on Defendant's side: Nil**List of Documents on Defendants side: Nil**

Additional District Munsif,
Cuddalore.

ADM Court, Cuddalore.
Fair Judgment
