

IN THE COURT OF THE DISTRICT MUNSIF AT AMBATTUR.

PRESENT: TMT.J.MADHUMITHA, B.A.B.L(HONS.), L.L.M.,

DISTRICT MUNSIF, AMBATTUR

Thursday, the 20th day of August 2026.

ORIGINAL SUIT NO.56 OF 2025

CNR.NO.TNTR22 – 000073 – 2025

1. N.Thangappan Pillai

2. T.Viji

3. Manju

4. Nirmal

.....Plaintiffs

Vs

1. The District Collector

2. The Tahsildar

3. The Commissioner, Chennai Corporation

4. The Zonal Officer

5. The Inspector of Police (L& O)

....Defendants

This suit having come on 01.08.2026 before me for final hearing in the presence of Shri.G.Prakash and A.M.Shankar, learned counsels for the Plaintiffs, Shri.R.Sivashankar, Government Pleader for the 1st, 2nd and 5th Defendants, Shri.C.Ganesh Pandian, K.Dakshinamurthy, A.Shabanal and M.Praveen Babu, learned counsels for the 3rd and 4th Defendants, upon hearing the arguments made by

the learned counsels for the plaintiffs and the learned counsels for the defendants and on perusal of the records and this suit having stood over for consideration till this day, this Court delivers the following.

J U D G M E N T

1. The suit is filed by the Plaintiff seeking to declare that Jayakumari W/o.Thangappan Pillai resided at No.36 B, 17th Street, Muthamizh Nagar, Kallikuppam, Ambattur, Chennai – 600 053 has been Civil Dead and direct the 4th Defendant to issue the Death Certificate to treat Jayakumari W/o. Thangappan Pillai as died and direct the 2nd Defendant to issue Legal Heirship Certificate of Jayakumari W/o.Thangappan Pillai.

CONCISE STATEMENT OF THE PLAINT FILED BY THE PLAINTIFF:

2. The Plaintiffs submit that the 1st Plaintiff is Father and the other Plaintiffs are his daughters and son. The 1st Plaintiff is residing in the above said address for the past 40 years and he was served in the uniformed force and retired as Sub-Inspector of Police, Chennai City in the year 2010. The 1st Plaintiff's wife Jayakumari who was undergoing treatment for mental illness past 15 years was missing from 14.04.2017 at about 06.30 in the evening onwards. After due enquiry the 1st plaintiff has lodged a complaint before the Inspector of Police, Ambattur, the 5th Defendant herein on 08.07.2017 and the said complaint was registered in Crime No.1784 of 2017. As on date her whereabouts beyond all search. The 1st Plaintiff has every doubt whether his wife Jayakumari is alive. Since, 7 years have been lapsed there is no purpose in

waiting to find out the whereabouts of his missing wife therefore the presumption is she died.

3. That the said Jayakumari is missing from 14.04.2017 and as of now her whereabouts are unknown and there is no reason to believe that she is alive. The complaint was lodged on 08.07.2017 however there is no progress either in the investigation or from the search made by the Plaintiffs, therefore the said Jayakumari is require to be declared as Civil Dead. The 1st Plaintiff has sent a representation on 26.09.2024 to the Defendants 2, 4 & 5 to issue legal Heirship Certificate, Death Certificate and Non-traceable Certificate respectively to treat Jayakumari as Dead. Though the said representation has been received by them on 30.09.2024 but no reply is forthcoming. Hence the 1st Plaintiff issued a Statutory Notice dated 02.01.2025 under Section 80 of CPC to the Defendants 2, 4 & 5 and the said Notice has also received by the Defendants on 03.01.2025 but they neither comply the demand made in the notice nor issued any reply. At this juncture there is no point in waiting for long and the hope of the Plaintiffs that Jayakumari is alive becomes a mystery. Hence filing this suit for a declaration to declare that the wife of the 1st Plaintiff and mother of the Plaintiffs 2 to 4 Jayakumari as Civil Dead and for consequential reliefs.

CONCISE STATEMENT OF THE WRITTEN STATEMENT FILED BY THE 4th DEFENDANT AND ADOPTED BY THE 3rd DEFENDANT:

4. It is submitted that the plaintiffs has filed this case with a prayer to declare that 1st Plaintiff wife (Jayakumari W/o Thangappan Pillai) is to be presumed to have at-

tained civil death as he had been missing for more than 7 years. That the 1st plaintiff had given a complaint and a FIR was filed under Crime No.1784/2017 in the T1 Ambattur Police Station on 08.07.2017 stating that his wife had been missing since 14.04.2017.

5. That there is no assurance of the death of Mrs.Jayakumari W/o Thanappan Pillai, No certainty of the date of death, place of death and disposal of the body. As per the Registration of Births and Deaths 1969 Sec 2(B) a death can be registered only after the permanent disappearance of an evidence of life at any time after live-birth has taken place.

6. That the Commissioner is the authority to issue the certificate under the Registration of Birth and Death Act 1969 and the Health Officer is the delegated authority to issue the certificate, but the plaintiffs not added the Health Officer in Cause title. That as per the letter from Govt. of Indian bearing No.1/12/87 VS- (CORD-HB) dated 07.09.2000 and the instructions of the Chief Registrar of Births and Deaths, Tamil Nadu (R.No.141928/SBHI-/s1/2000 Dt-02.12.2000)

7. ".....So far as the determination of the date and place of a person who is missing for more than seven years in concerned, is a question of fact and may be determined by the competent Court/Authority on the basis of oral and documentary evidence produce before him in this regard. Since the Registration of Birth and Death Act and Rules are silent on the question of determination of the date and place of death of a missing person, the date and place determined by the Court in a declaratory

suit, be filed for this purpose can be relied upon...." Hence prayed to dismiss this suit based on the above said submissions of the 3rd & 4th defendant.

8. On perusal of the plaint and written statement filed by the defendants, this Court framed the following issues on 22.04.2026:

ISSUES

- 1. Whether the plaintiff is entitled to Declaration as to Civil death as prayed for?*
- 2. Whether plaintiff is entitled to mandatory injunction against the 2nd & 4th Defendant as prayed for?*
- 3. To what other relief plaintiff is entitled to?*

9. **Evidences:** On the side of plaintiffs, the 1st Plaintiff is examined as PW1 himself and Ex.A1 to Ex.A8 documents were marked. No one was examined and no documents were marked on the side of defendants.

Discussions and Findings:

Answer to Issues No.1 and 2-

10. This court finds that the 1st Plaintiff is the husband of the missing Mrs.Jayakumari. It is the case of Plaintiffs that the 1st Plaintiff's wife Jayakumari who was undergoing treatment for mental illness past 15 years was missing from 14.04.2017, and it is observed from Ex.A2 medical report of Mrs.Jayakumari that she was under medications. It is observed from Ex.A3 complaint dated 08.07.2017

that the Plaintiffs have searched for Mrs.Jayakumari for three months, and had decided to file complaint unable to find Mrs.Jayakumari. It is observed that the said complaint was registered in Crime No.1784 of 2017 on the same day of complaint. On registration of the FIR, it is inferred that they have made the enquiry but unable to find out Mrs.Jayakumari's whereabouts.

11. The Plaintiff has filed complaint before Ambattur Police station and FIR NO. 1784/2017 has been registered with regard to woman missing. The PW1 clearly explained about the said Mrs.Jayakumari has been missing from 14.04.2017 and has not been traced despite necessary efforts. Thus, Mrs.Jayakumari has not been heard by plaintiffs for more than seven years by the persons who would have ordinarily heard from her. The PW1 has been cross examined elaborately by the the defendants, there is no contradiction elicited about the fact that the said Mrs.Jayakumari is missing. Hence, the evidence of PW1 has to be taken on face value, as he has been able to withstand the cross examination.

12. Further, this Court refers to section 108 of Indian evidence act (now section 106 BSA), provides the Burden of proving that person is alive who has not been heard of For seven years, wherein it is Provided that 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. IN the present case on hand there is nobody affirming that the said Mrs.Jayakumari is alive. Hence when a

person was continuously absent for seven years and he was not heard by his friends and neighbours he may be presumed to have died and the burden of proving that he is alive shifts on the person that he is alive. The presumption of continuance of life under Section 107 ceases at the expiration of seven years from the period when the person in question was last heard of, and it can be described the period of disappearance as one 'of not less than seven years.

13. Thus, Mrs.Jayakumari has not been heard by for more than seven years by PW1, who would have ordinarily heard from him. Hence, the evidence of PW1 has to be taken on face value, as she has been able to withstand the cross examination. Applying Section 108 of the Indian Evidence Act, 1872, (now section 106 BSA) to the instant facts of the case, plaintiffs being the legal heirs of Mrs.Jayakumari having stated and established their case as to they had not heard about Mrs.Jayakumari since 14.04.2017 and also the Defendants having not raised any valid grounds of suspicion over the version of the case of plaintiffs except general averments. This Court hereby comes to the conclusion that Mrs.Jayakumari, the wife of 1st Plaintiff, had to be presumed to be dead, since she had not been heard from 14.04.2017 by the plaintiffs. From the foregoing discussions, this Court hereby comes to the conclusion that in view of Mrs.Jayakumari having not been heard since 14.04.2017, she is presumed to be dead. Therefore, the Plaintiffs are the Class I legal heirs under Section 8 of the Hindu Succession Act, and are entitled to receive the death certificate, and legal heir certificate of Mrs.Jayakumari.

14. Though the plaintiff has sought for the 4th defendant to issue the death certificate, and against the 2nd Defendant to issue legal heirship certificate. As seen from the pleadings of the Defendants, their only concern is for declaration from the appropriate court. Therefore, this court concludes that in the interest of justice, the 4th Defendant is obligated to register the death of Mrs.Jayakumari and issue death certificate, and the 2nd Defendant is obligated to issue the legal heir certificate of Mrs.Jayakumari within a period of two months from the date of receipt of copy of this decision. Accordingly, Issue No. 1 and 2 are answered in favour of the Plaintiffs.

Answer to Issue No. 3 :

15. Considering the Issue No.1 and 2 have been answered in favour of the Plaintiffs, this court considers that the Plaintiffs are not entitled to any other relief. Taking into consideration the nature of the case and relief sought for, this court is of the considered view that the parties shall bear their own costs. Thus, the issue No.3 is answered accordingly.

RESULT :-

16. In the result, this suit is allowed,

- (i) It is hereby declared that Mrs.Jayakumari is presumed to be dead as she has not been heard for the past more than seven years since 14.04.2017;
- (ii) a mandatory injunction is granted in favour of the Plaintiffs, directing the

4th defendant to issue the Death certificate of Mrs.Jayakumari who has been declared as civil dead, within a period of 2 months from the date of receipt of this judgment;

(iii) a mandatory injunction is granted in favour of the Plaintiffs, directing the 2nd defendant to issue the legal heir certificate of Mrs.Jayakumari who has been declared as civil dead, within a period of 2 months from the date of receipt of this judgment;

(iv) The parties shall bear their own costs.

Dictated to the steno-typist, typed by her directly in the desktop, corrected and pronounced by me in the open Court on this 20th day of August 2026.

**DISTRICT MUNSIF,
AMBATTUR.**

PLAINTIFFS SIDE WITNESSES:

PW1 Thangappan Pillai

PLAINTIFFS SIDE EXHIBITS:

Exhibit A1	--	Aadhar Card of the Plaintiff – Photo Copy
Exhibit A2	--	Medical Prescription of Jayakumari – Photo Copy
Exhibit A3	08.07.2017	Complaint given by the 1 st plaintiff to the 5 th Defendant – Hand copy
Exhibit A4	08.07.2017	First Information Report - Original
Exhibit A5	26.09.2024	Representation sent by the 1 st Plaintiff to the Defendants 2, 4 & 5 along with postal receipt - Original
Exhibit A6	30.09.2024	Acknowledgment Cards – Original (2 Nos)

Exhibit A7 02.01.2025 Legal Notice along with Postal receipt – Office Copy

Exhibit A8 03.01.2025 Acknowledgment Cards – Original (3 Nos)

DEFENDANTS SIDE WITNESSES AND EXHIBITS:NIL

**DISTRICT MUNSIF,
AMBATTUR.**