

(2010) 12 MAD CK 0184
In the Madras High Court
Case No : Writ Petition No. 18187 of 2010

N. Vedantam

APPELLANT

Vs

Executive Officer, Town Panchayat, Perungalathur and
Another

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 2A
Registration of Births and Deaths Act, 1969 — Section 10, 19(2), 20, 21, 23
Tamil Nadu Registration of Births and Deaths Rules, 2000 — Rule 1, 2, 6

Citation : (2011) 256 MLJ 1278 : (2011) 6 RCR(Civil) 2439

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : V.P. Raman, for the Appellant; J. Raja Kalifulla, Government Pleader,
for the Respondent

Final Decision : Allowed

Judgement

S. Manikumar, J.—The Petitioner has challenged the communications of the Respondents 1 and 2, dated 26.5.2010 and 9.6.2010 respectively, refusing to register the death of his wife, Ms. Pankajam in Chennai, as per the provisions of the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the Act) and consequently, sought for a direction to the Respondents to issue the death certificate of late Ms. Pankajam.

2. According to the Petitioners that on 2.5.2010, his wife, after visiting her first daughter's house at New Delhi, took a train bearing No. 2391, from New Delhi to Patna to see her second daughter's at Patna. On 3.5.2010, while in transit, she suddenly passed away in the train, due to heart attack. Thereafter, her body was taken to the nearest Kanpur Railway Station, where the Doctor and Station Master, confirmed her death. On receiving this information, the Petitioner's relatives in Lucknow immediately rushed to Kanpur Rail-way Station. On the same day, the Anatomical Society, Lucknow intimated to them that the

Petitioner's wife's body had been embalmed and was fit for transportation. Thereafter, it was transported to the residence in Chennai and after performing the last rites, her body was cremated within the jurisdiction of the 1st Respondent. Thereafter, the Petitioner approached the Executive Officer, Town Panchayat, Perungalathur, Chennai, 1st Respondent herein, requesting him to issue death certificate for her death, after duly registering her demise in the records, as per the provisions of the above said Act. In response to the above, the first Respondent, by letter, dated 26.5.2010, informed the Petitioner that as the death had not taken place within his jurisdiction, the same cannot be registered and as per the provisions of the Act, the Registrar can only record deaths that take place within his jurisdiction. Being aggrieved by the same, the Petitioner requested his Nephew, Mr. Narayana Prasad, to send a representation on his behalf and vide letter dated 1.6.2010 and the same was sent to the Director, Public Health and Preventive Medicine, Chennai, the second Respondent, explaining the facts, as to how the death had occurred. Along with the representation, judgments of Gauhati High Court in *Kanai Mallick v. State of Tripura* and Ors. (2006) Indlaw Guw 68 and Kerala High Court in *Tessy P. Das v. Paipadu Grama Panchayat* (2007) Indlaw Ker 1921 respectively. The second Respondent has sent a reply, dated 9.6.2010, stating that as per Section 7(2) of the said Act, though the body was cremated within the jurisdiction of the Respondents, the death ought to have been registered only in Kanpur, where it took place. Being aggrieved by the communications of the Respondents stated supra, the Petitioner has come forward with the present writ petition for the relief, as stated supra.

3. Referring to the statutory provisions of Sections 7 to 10 of the Registration of Births and Deaths Act, 1969, learned Counsel for the Petitioner submitted that the plain reading of the first limb of Section 7(2) of the Act would itself make it clear that the Respondents shall enter in the register all information given to him under Sections 8 or 9 of the Act. According to him, the second limb of Section 7(2) of the Act speaks not only the details of birth and death furnished to them, but also to take steps to register the particulars required. He therefore submitted that when the first Respondent is statutorily bound to record the information regarding the birth, refusal of the same amounts to failure in discharging his statutory duties, which provides even punishment as per Section 23 of the Act.

4. Learned Counsel for the Petitioner further submitted that the Respondents have misinterpreted Section 7(2) of the Act to mean that the Registrar is liable to register the births and deaths, occurring only within his territorial jurisdiction and failed to consider that for the purpose of registration under Sections 8 and 9 of the Act, the question of the concerned event occurring within the territorial jurisdiction of the Registrar is immaterial. According to him, the words "and shall also" used in Section 7(2) of the act, has to be read disjunctive and not conjunctive, as interpreted by the Respondents.

5. Learned Counsel for the Petitioner further submitted that the Respondents

have failed to appreciate that the Central Act is a beneficial legislation and has been enacted for proper maintenance of records of births and deaths and merely because, the death occurred during transit from New Delhi to Kanpur, the Petitioner cannot be driven to a place, where, she had heart attack before death. According to him, nobody knows at which place during transit she died. In this context, he submitted that the Petitioner has relied on decisions in *Kanai Mallick v. State of Tripura* and (supra) and *Tessy P. Das v. Paippadu Grama Panchayat* (supra), where Courts have interpreted Section 7(2) of the Act to mean that the information furnished to the Registrar regarding the death of persons should be entered in the Registers.

6. The Executive Officer, Town Panchayat, Perungalathur, Chennai, first Respondent, has filed a detailed counter affidavit and on the basis of the same, Mr. Raja Kalifulla, learned Counsel appearing for the 1st Respondent, opposed the maintainability of the writ petition as misconceived. Going by the averments made in the affidavit filed in respect of the writ petition, he submitted that if the Petitioner's wife died during transit, in terms of procedure set out in the Act, the Railway Guard has to give necessary report to the Station Master in charge of the Station, where the train first halts. According to him, if the Railway Guard would have given information, the death of the Petitioner's wife would have been registered. Therefore, the Railways, represented by its General Manager, is the proper and necessary party to the writ petition.

7. Learned Government Pleader further submitted that this Court has no jurisdiction to entertain this writ petition, as the cause of action is beyond the jurisdiction of this Court. He further submitted that the wife of the Petitioner died in a moving train between New Delhi and Kanpur. It is not known how the body was brought to Chennai, without inquest and proper medical certificate. The above facts only lead to suspicion about the death.

8. Learned Government Pleader further submitted that the Government have issued orders in G.O. Ms. No. 659, Health and Family Planning Department, dated 13.7.1977, appointing the Director, Directorate of Public Health and Preventive Medicine, Chennai, second Respondent as Chief Registrar of Births and Deaths, Tamil Nadu, for implementing the provisions of the Act and the Rules framed and Orders made thereunder. He also submitted that as per the above said Government Order, for the purpose of registration of Births and Deaths, u/s 5 of the said Act, the Government have divided the local area of State of Tamil Nadu as follows:

(1) Corporations and Municipalities are divided into Registration divisions with demarcated jurisdictions (Wards).

(2) Village Panchayats/Town Panchayats/ Townships/Cantonments are "single Registration Unit".

9. Learned Counsel for the First Respondent further submitted that for the purpose of carrying out registration of Births and Deaths work, each unit/

Division, a person is appointed and designated as Birth and Death Registrar, by Government u/s 7(1) of the said Act. He has to discharge his duties, as Births and Deaths Registrar, that takes place within his jurisdiction, as per the said Act and the Rules framed and Orders issued thereunder from time to time, under Sections 7(2); 3(3) and 4(4) of the Act.

10. Referring to Rule 6 of the Tamil Nadu Registration of Births and Deaths Rules, 2000 and the explanation provided thereunder, learned Counsel further submitted that as the death had occurred in the Railway carriage, the Officer, who conducted the inquest, ought to have given the information under Sub-section (1) of Section 8 of the Act, at the place of first halt and consequently, it cannot be said that the Respondents, who are empowered to discharge the duties of registering the births and deaths, have failed to act in terms of statute.

11. In sum and substance, he submitted that as the death had not occurred within the jurisdiction of the first Respondent, the same cannot be registered. According to him, as per Rule 6 of the Rules, read with Section 8(1)(f) of the Act, it is the duty of the Railway Guard in train bearing No. 2391, from New Delhi to Patna, to give information of the death of the Petitioner's wife, to the Registrar of Births and Deaths, Kanpur. For the above said reasons, he submitted that provisions have been properly interpreted by the Respondents and therefore, there is no manifest illegality in the impugned communications, warranting interference. Heard the learned Counsel for the parties and perused the materials available on record.

12. Before advertng to the facts of this case, it is necessary to have cursory look at the provisions of the Registration of Births and Deaths Act, 1969 and the Tamil Nadu Registration of Births and Deaths Rules, 2000. Central Act 18 of Registration of Births and Deaths Act, 1969, has been enacted to provide for the regulation of registration of births and deaths and for matters connected therewith.

13. Section 4 of the Act deals with the appointment of Chief Registrar and such other officers for the purpose of carrying out the provisions of the Act, rules framed thereunder and the orders issued from time to time:

The State Government may, by notification in the Official Gazette, appoint a Chief Registrar for the State.

(2) The State Government may also appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Chief Registrar, such of his functions as he may, from time to time, authorize them to discharge.

(3) The Chief Registrar shall be the chief executive authority in the State for carrying into execution the provisions of this Act and the rules and orders made thereunder subject to the directions, if any, given by the State Government.

(4) The Chief Registrar shall take steps by the issue of suitable instructions or

otherwise, to co-ordinate, unify and supervise the work of registration in the State for securing an efficient system of registration and shall prepare and submit to the State Government, in such manner and at such intervals as may be prescribed, a report on the working of this Act in the State along with the statistical report referred to in Sub-section (2) of Section 19.

14. Section 5 deals with Registration Division. Section 6 speaks about the appointment of District Registrar by the Government. As per Section 7(1) and (2) of the Act,

(1) The State Government may appoint a Registrar for each local area comprising the area within the jurisdiction of a municipality, panchayat or other local authority or any other area or a combination of any two or more of them:

Provided that the State Government may appoint in the case of a municipality, Panchayat or other local authority, any officer or other employee thereof as a Registrar.

(2) Every Registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him u/s 8 or Section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

15. Chapter 3 of the Act deals with the registration of births and deaths. Section 8 speaks about the duty of the persons required to register births and deaths and it reads as follows:

(1) It shall be the duty of the persons specified below to give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under Sub-section (1) of Section 16,

(a) in respect of births and deaths in a house, whether residential or nonresidential, not being any place referred to in Clauses (b) to (e), the head of the house or, in case more than one household live in the house, the head of the household, the head being the person, who is so recognized by the house or the household, and if he is not present in the house at any time during the period within which the birth or death has to be reported, the nearest relative of the head present in the house, and in the absence of any such person, the oldest adult male person present therein during the said period;

(b) in respect of births and deaths in a hospital, health center, maternity or nursing home or other like institution, the medical officer in charge or any person authorized by him in this behalf;

(c) in respect of births and deaths in a jail, the jailor in charge;

(d) in respect of births and deaths in a choultry, chattram, hostel, dharmasala,

boarding house, lodging house, tavern, barrack, toddy shop or place of public resort, the person in charge thereof;

(e) in respect of any new-born child or dead body found deserted in a public place, the headman or other corresponding officer of the village in the case of a village and officer in charge of the local police station elsewhere:

Provided that any person who finds such child or dead body, or in whose charge such child or dead body may be placed, shall notify such fact to the headman or officer aforesaid;

(f) in any other place, such person as may be prescribed.

(2) Notwithstanding anything contained in Sub-section (1), the State Government, having regard to the conditions obtaining in a registration division, may order require that for such period as may be specified in the order, any person specified by the State Government by designation in this behalf, shall give or cause to be given information regarding births and deaths in a house referred to in Clause (a) of Sub-section (1) instead of the persons specified in that clause.

16. As the death, in the instant case, is reported to have occurred in a moving train, it is necessary to extract Rule 6 of the Tamil Nadu Registration of Births and Deaths Rules, 2000, which reads as follows:

(6) Birth or Death in a vehicle: (1) In respect of a birth or death in a moving vehicle, the person in-charge of the vehicle shall give or cause to be given the information under Sub-Section 8 at the first place of halt.

Explanation: For the purpose of this rule, the term "Vehicle" means conveyance of any kind used on land, air or water and includes an aircraft, boat, ship, railway carriage, motor-car, motor - cycle, cart, tonga and rickshaw.

(2) In the case of deaths (not falling under Clauses (a) to (e) of Sub-section (1) of Section 8) in which an inquest is held, the officer who conducts the inquest shall give or cause to be given the information under Sub--section (1) of Section 8.

17. Rule 7 of the said Rules deals with notification and form of Certificate u/s 10 and it reads as follows:

(1) The certificate as to the cause of death required under Sub-section (3) of Section 10 shall be issued in Form No. 5 or 5-A and the Registrar shall, after making necessary entries in the Register of Births and deaths, forward all such certificates to the Chief Registrar or the Officer specified by him in this behalf by the 10th of the month immediately following the month to which the certificate relates.

(2) Any person who performs the funeral ceremonies of a person dying in a local area within the jurisdiction of a municipality, panchayat or other local authority or any other area, shall whenever required furnish to the Registrar such

information as he possesses regarding the particulars required for registration.

18. Section 20 of the Act deals with Special provision as to registration of births and deaths of citizens outside India and it reads as follows:

(1) The Registrar General shall, subject to such rules as may be made by the Central Government in this behalf, cause to be registered information as to births and deaths of citizens of India outside India received by him under the rules relating to the registration of such citizens at Indian Consulates made under the Citizenship Act, 1955 (57 of 1955), and every such registration shall also be deemed to have been duly made under this Act.

(2) In the case of any child born outside India in respect of whom information has not been received as provided in Sub-section (1), if the parents of the child returns to India with a view to settling therein, they may, at any time within sixty days from the date of the arrival of the child in India, get the birth of the child registered under this Act in the same manner as if the child was born in India and the provisions of Section 13 shall apply to the birth of such child after the expiry of the period of sixty days aforesaid.

19. Section 21 of the Act empowers the Registrar to obtain information regarding birth or death and it states that the Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition. Section 23 deals with penalty. As per Rule 9(2) of the Rules, any birth or death of which information is given to the Registrar after thirty days but within one year of its occurrence, shall in the case of the local authorities specified in column (1) of the Table given in the Rules, be registered only with the written permission of the officers specified in the corresponding entries in column (2) thereof, on payment of a late fee of rupees five.

20. Though the Respondents have opposed the maintainability of the writ petition on the ground of territorial jurisdiction, contending that as the cause of action for the present writ petition, has arisen beyond the jurisdiction of this Court, at Paragraph 18 of the counter affidavit, they have categorically admitted that the Petitioner's wife, a native of Perungalathur, Chennai, died between New Delhi and Kanpur, while she was traveling in Train No. 2391, New Delhi-Patna Express. They have also admitted that the body was handed over to the Railway Guard, Kanpur Railway Station and embalmed by Anatomical Society, Department of Anatomy CSM Medical University, Lucknow and therefore, brought to Perungalathur Town Panchayat area. The relevant paragraph from the counter affidavit is extracted:

It is submitted that the Petitioner's wife is a native of Perungalathur, Chennai-600 063 and while she was traveling in Train No. 2391 - New Delhi - Patna Express, died in between New Delhi-Kanpur on 30.5.2010. The body was dropped at Kanpur Railway Station and embalmed by Anatomical Society,

Department of Anatomy CSM Medical University, Lucknow. The dead body of Tmt. Pankajam was brought to Perungalathur Town Panchayat area.

21. Though a suspicion has been raised by the Respondents, as to how the body was brought to Chennai, without inquest and proper medical certificate, perusal of the materials on record shows that Doctor, Dr. A.K. Srivastava, President, Anatomical Society, C.S.M. Medical University, Lucknow, has issued a certificate in reference No. AS/25/2010, dated 3.5.2010, certifying that the dead body of Late Pankajam, W/o. N. Vedantam (writ Petitioner), resident of 2/8, T.V.K. Street, Perungalathur, P.S. Perungalathur, Kancheepuram District, was embalmed in the department on 3.5.2010 and that he has also certified that the dead body was fit for transportation. It is to be noted that under the Act or the Rules framed thereunder, there is no provision for conducting any enquiry as to the nature or cause of death. Whether the death is natural or otherwise, is not the criteria for registration under the Act. Therefore, this Court is of the view that the objections of the Respondents, raising suspicion over the cause of death, is irrelevant.

22. By letter, dated 26.5.2010, the Executive Officer, Perungalathur Town Panchayat has returned the documents to the Petitioner, instructing him to register the death in the place, in which, it has occurred. In response to the Petitioner's counsel letter, dated 1.6.2010, the Director of Public Health, Preventive Medicine, Chennai, second Respondent, in his impugned communication, dated 9.6.2010, has informed the Petitioner that as per the provisions of Section 7(2) of the Act, the event of birth and death can be registered only at the place of occurrence, though the dead body was cremated here. According to him, when the death had occurred at Kanpur, it can be registered only at the place of occurrence. By the above said communication, he has suggested that the Petitioner may have to approach the Birth and Death Register, Kanpur for the same.

23. As stated supra, the Respondents have categorically admitted that the body has been cremated within the territorial jurisdiction of the first Respondent. At this juncture, it should be noted that unless it is embalmed, found fit for transportation and without getting permission from the competent authority, transportation would not have been possible. The attested copy of the report reads that the Head Bearer, Railway Station, Kanpur, has reported the death at 22.30 Hrs., on 2.5.2010 and the said fact has also been intimated to the Police Station. The report further reads that, at 7.00 p.m., the body was handed over for medical examination and thereafter, the relatives had arrived. The report states that the cause of action for the death was due to sudden massive heart attack. No external marks have been found on the dead body.

24. Nevertheless, as stated supra, the cause of death is not relevant for the purpose of registration of death under the provisions of the Act, but the information furnished in the typed set of papers, can be relied on, to corroborate the fact that the Petitioner's wife died during the transit. Now, this Court deems it fit to consider the decisions relied on by the learned Counsel for the writ

Petitioner.

25. In *Kanai Mallick v. State of Tripura and Ors.* (supra), the deceased Nityananda Mallik was serving as a Constable under the Tripura Government and was a permanent resident of Singhamura village of Hapania Panchayat under Dukli Block of West Tripura district. Prior to the death, his name was registered in the Panchayat ordinary residents' register, which was maintained under the authority of the second Respondent therein. While he was undergoing treatment at BINR Hospital, Kolkata, he died on 3.3.2006, due to cardio respiratory failure. Accordingly, the Medical Officer of the said hospital issued a death certificate, dated 3.3.2006, indicating therein that he was a resident of West Tripura district. Thereafter, an application was addressed by the Joint Resident Commissioner of Tripura Bhavan, Kolkata to the Officer-in-Charge, Shawanipur Police Station, Kolkata requesting for "No Objection" certificate to carry the dead body of Nityananda Mallik by Air to Agartala for the purpose of cremation. On the basis of permission granted, the dead body was carried to Tripura and the body was also cremated in his home village on 4-3-2006, within the jurisdiction of the Registrar, second Respondent therein. Thereafter, an application, dated 12-5-2006 was addressed to the Registrar for issuance of death certificate and the prescribed fee was also paid. However, the Registrar refused to register the death of deceased Nityananda Mallik on the ground that the death did not occur within his territorial jurisdiction. Being aggrieved by the same, a writ petition was filed before the High Court, seeking for a direction to act in terms of Section 7(2) of the Act. After examining statutory provisions and the objects and reasons of the enactment of the Act in the year 1969 and the earlier Act which covered the registration was known as the Births, Deaths and Marriage Registration Act, 1886, a learned Judge of Gauhati High Court, at Paragraphs 7, 8 and 9, held as follows:

7. To gather the Legislative intent of certain provisions of a statute, it is important to read the provision in its context. The statute must also be read as a whole or read in its entirety in order to understand the true Legislative intent.

Accordingly, if one examines the words in Section 7(2), it appears to the Court that the Registrar in terms of the said Section is required at first instance to enter in the register maintained for the purpose, information given to him u/s 8 or Section 9 of the Act. The said function of the Registrar as indicated by first part of the provisions in Section 7(2) is followed by the words "and shall also" and requires the Registrar to take steps to inform himself carefully of every birth and every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

From reading of the said words, it appears that insofar as information's coming u/s 8 or Section 9 of the Act, which information's are required to be provided by the persons/authorities mentioned in Sections 8 and 9, those information's are required to be entered in the register maintained for the purpose by the Registrar. It is not stipulated either in Section 8 or in Section 9 or in Section 7(2)

that the information's to the Registrar must be in respect of death happening within the territorial jurisdiction of the concerned Registrar.

But insofar as the second limb Of the function of the Registrar envisaged u/s 7(2), where the Registrar is to take; active steps to inform himself carefully of every birth and every death which takes place in his jurisdiction and register the same, the requirement of taking such information within his territorial jurisdiction is envisaged. In respect of such births and deaths occurring within the jurisdiction of the Registrar, the Registrar has a responsibility to actively pursue such information and register the same. It is, therefore, natural for the Legislature to provide a territorial limit on such suo motu functioning envisaged of the Registrar.

However, where information's about births and deaths are expected to come to the Registrar from various sources visualized under Sections 8, 9 and 10 of the Act, the Registrar has not been fastened with a territorial limit for entering such information's in the register maintained by him. If the Legislature would have intended that even for information coming under Sections 8, 9 and 10 of the Act, the Registrar is required to act only on births and deaths occurring within the territorial limits of his functioning, the Legislature would have definitely indicated in the first part of the Section 7(2) itself that the information has to be of events happening within the territorial limits of the Registrar.

It must also be kept in mind that Legislature while enacting Section 7(2) has conferred two distinct and different responsibilities on the Registrar by separating the whole sentence with the words "and shall also". The use of the words "and shall also in the context is significant. The plain meaning that one could give to the Legislative intent by use of such words in the statute is that two distinct kinds of responsibilities are thrust on the shoulder of the Registrar. In the second part, the Registrar has to collect information on his own and naturally Legislature did not intend that he would collect information in respect of events happening beyond his territorial limits.

But as regards his functioning on the basis of information provided, the Legislature has deliberately not indicated that said functioning is to be confined to events happening within the territorial limits of the Registrar and accordingly, this Court is of the opinion that the words appearing in Section 7(2) of the Act envisage two distinct functions of the Registrar to be exercised in two distinct contexts.

On the functioning of the Registrar, while he is acting on information provided by others under Sections 8 and 9 of the Act, the Legislature has not intended that Registrar is to act only on information's of events taking place within his territorial limits.

8. The words "and shall also" appearing in Section 7(2) has also to be given its appropriate meaning as it cannot be said that those words are superfluous and have been used loosely by the Legislature. If a reasonable meaning to the words

"and shall also" is to be given, it would naturally mean dividing of two distinct division of functions of the Registrar in exercise of his responsibilities u/s 7(2) and the territorial restrictions envisaged in the later part ought not to be forcibly brought into play in the first part of the functioning of the Registrar.

9. The present Act is in the nature of a beneficial Legislation, which has been enacted for carrying out the welfare activities by the Government where maintenance of accurate records of births and deaths are necessary and to read the statute to mean that death of a local resident cannot be registered by a Registrar who exercises territorial jurisdiction over the area where the said local resident resides, merely, because such death takes place outside his territorial limits, would be unreasonable and illogical.

The objective of the Act to have accurate information on births and deaths would not also be fulfilled in such a case. If the Registrar is held to be incompetent to record such deaths, his records would be inaccurate and faulty.

As such, it would be more reasonable to interpret the provisions of Section 7(1) to mean that while acting on information given, the Registrar is not to confine his function only to information given by persons within his territorial limits.

In Sections 8 and 9 of the Act, it is not indicated that the information has to be from within the territorial limits of the Registrar when he gives information's on births and deaths to the Registrar and this has to be interpreted to mean that information to the Registrar can come from an informant outside his territorial limits.

26. Further, the High Court of Gauhati also opined that the Registrar, while discharging his functions by acting on information given u/s 7(2) of the Act, is competent to act on information's irrespective of the territorial limits of his functioning, provided that the information's relate to a person who was a resident during his life time within the territorial limits of the said Registrar and accordingly, granted the relief sought for in the writ petition.

27. In *Tessy P. Das v. Paippadu Grama Panchayat* (supra), the Petitioner's husband Sri. Jose Das died in Madurai in Tamil Nadu, the dead body was brought over to Paippadu village and was buried at the Cemetery of St. Thomas Church, Paippadu, his parish Church. The Vicar of the Church has issued Exhibit P-3, Certificate in this regard. Along with the Certificate, the Widow made an application for issuance of a Death Certificate in respect of Sri Jose Das. But the said application was rejected on the ground that the death occurred outside his jurisdictional limits, viz., the area of Paippadu Grama Panchayat. The Petitioner has filed a writ petition, seeking for a writ of mandamus, directing the Respondent to register the death of her husband. It was inter alia contended on behalf of the Register that he is not competent in terms of Section 7(2) of the Act to register the death which occurred outside the limits of the Panchayat-the Registration Unit. On the above said factual aspects, a learned Judge of the Kerala High Court, while considering the helplessness of the Registrar on the

ground that the death did not occur within his territorial jurisdiction and after considering the statutory provisions of Sections 7 to 10 of the Act and of the fact that the Parish Priests of churches in the cemetery in which burial of dead-bodies conducted have been authorised, as per notification No. 1197/79, dated 13.10.1997, as persons duty bound to notify for the purposes of Registration of Births and Deaths Act, 1969, at Paragraphs 8, to 11, observed as follows:

8. Section 8(e) as already noticed deals with dead-bodies found deserted in public places and it is not difficult to assume that In the case of those dead-bodies the probabilities will be more than deaths took place in some far away places out of the local limits of the registration unit. It is very common now a days that dead-bodies of persons who die abroad at their places of work are brought down to their native villages for cremation. Insistence on the death taking place within the jurisdictional limits of the Registrar as a condition for registration of the births and deaths, will result in considerable hardship to the dependants and the legal representatives of the dead.

9. An entry in the Death Register maintained by the local Register relating to the death of a person will be required by the surviving dependents or legal representatives so as to enable them to administer the estate left behind in their favour.

10. It appeals to me that the Respondent has read the two limbs in Section 7(2) i.e. the first limb of the Registrar making entries of information received by him u/s 8 or Section 9 and the second limb of the Registrar taking steps to inform himself of death taking place within his jurisdiction conjunctively and taken the view that he is bound to register only those information received in respect of deaths taking place within his jurisdiction. The first limb in Section 7(2) and the second limb therein in my view, are to be read disjunctively and not conjunctively. The Registrar will have an obligation u/s 7(2) to register particulars regarding births or deaths, regarding which information is given to him, under Sections 8 or 9 wherever death or birth takes place. Such an interpretation is to be given to Section 7(2) as otherwise provisions like Section 8(e) obliging village headmen, police officers and authorised persons like Parish priests to convey information to registrars will become otiose.

11. For all the above reasons, I hold that Registrars appointed by the State Government u/s 7 of the Registration of Births and Deaths Act, 1969 for a given local area, are competent to Register Births and Deaths taking place outside the local areas provided information with regard to the birth or death is duly notified to them u/s 8 or 10 of the Act, in such cases, the Registrar will have to be convinced regarding the identity of the child born or person who is dead on the basis of dependable materials. A declaration will have to be insisted from the person aspiring for registration to the effect that the particulars sought to be registered are true and correct and that the particulars have not been registered anywhere else in India and also that the same does not run in conflict with particulars registered by any other authority outside India.

28. Accordingly, a learned single Judge of Kerala High Court has directed the authority to act upon Exhibits P-2 and P-3 and register the death of the Petitioner's husband, Sri. Jose Das T.V. in the register maintained by him under Act 18 of 1969 and to issue a certified extract of the relevant entries to the Petitioner therein, if applied. On facts, the two judgments relied on by the learned Counsel for the Petitioner squarely applies to the facts of the case on hand.

29. At the risk of repetition, Section 7(2) of the Act, which deals with the statutory duty of the Registrar to make entries, is reproduced. Section 7(2) consists of two parts,

Part I- Every Registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him u/s 8 or Section 9;

and shall also

Part II-take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

30. Section 9 of the Act deals with Special provision regarding births and deaths in a plantation and it reads as follows:

In the case of births and deaths in a plantation, the superintendent of the plantation shall give or cause to be given to the Registrar the information referred to in Section 8:

Provided that the person referred to in Clauses (a) to (f) of Sub-section (i) of Section 8 shall furnish the necessary particulars to the superintendent of the plantation.

Explanation. In this Section, the expression, "plantation", means any land not less than four hectares in extent which is being prepared for the production of, or actually produces, tea, coffee, pepper, rubber, cardamom, cinchona or such other products as the State Government may, by notification in the Official Gazette, specify and the expression "superintendent of the plantation", means the person having the charge or supervision of the laborers and work in the plantation whether called a manager, superintendent or by any other name.

31. Section 10 of the Act mandates certain persons with duty to notify births and deaths and to certify the cause of death and it reads as follows:

(1) It shall be the duty of:

(i) the midwife or any other medical or health attendant at a birth or death,

(ii) the keeper or the owner of a place set apart for the disposal of dead bodies or any person required by a local authority to be present at such place, or

(iii) any other person whom the State Government may specify in this behalf by

his designation, to notify every birth or death or both at which he or she attended or was present, or which occurred in such areas as may be prescribed, to the Registrar within such time and in such manner as may be prescribed.

(2) In any area, the State Government, having regard to the facilities available therein in this behalf, may require that a certificate as to the cause of death shall be obtained by the Registrar from such person and in such form as may be prescribed.

(3) Where the State Government has required under Sub-section (2) that a certificate as to the cause of death shall be obtained, in the event of the death of any person who, during his last illness was attended by a medical practitioner, the medical practitioner shall, after the death of that person, forthwith, issue without charging any fee, to the person required under this Act to give information concerning the death, a certificate in the prescribed form stating to the best of his knowledge and belief the cause of death; and the certificate shall be received and delivered by such person to the Registrar at the time of giving information concerning the death as required by this Act.

32. As stated supra, Section 7(2) of the Act comprises of two parts, the words "and shall also" are employed with an emphasis "also", this Court deems it to consider the meaning and attributes of the words, as explained by the Supreme Court in Samee Khan Vs. Bindu Khan, . At Paragraph 13, the Supreme Court explained the usage of the words, "and may also" which figure in Order 39 Rule 2-A of Code of Civil Procedure. In order to understand the usage of the above words, it is worthwhile to extract Order 39 Rule 2-A Code of Civil Procedure,

Consequence of disobedience or breach of injunction - (1) In the case of disobedience of any injunction granted or other order made Under Rule 1 or Rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court, may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the property entitled thereto.

2(3). In case of disobedience, or of breach of any such terms, the Court granting an injunction may order the property of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding six months, unless in the meantime the Court directs his release.

33. After extracting the meaning of the word "also", the Supreme Court interpreted the words, "and may also" in Rule 2-A as follows:

12. The words "and may also" appearing in Rule 2A were sought to be given a meaning that the course suggested thereafter in the Rule has to be resorted to as an optional additional step, a resort to which would be impermissible without complying with the first course suggested in the Rule. The word "also" has different attributes and its meaning is not to be confined to "further more". In legalistic use, the word "also" can be employed to denote other meanings as well. In BLACK'S LAW DICTIONARY the word "also" has the following variety of meanings:

Also Besides as well in addition; likewise, in like manner; similarly; too; withal. Some other thing, including, further, furthermore, in the same manner, moreover; nearly the same as the word "and" or "likewise

13. Since the word "also" can have meaning as such "as well" or "likewise", cannot those meanings be used for understanding the scope of the trio words "and may also"? Those words cannot altogether be detached from the other words in the sub-rule. Here again the word "and" need not necessarily be understood as denoting a conjunctive sense. In STROUD'S JUDICIAL DICTIONARY it is stated that the word "and" has generally a cumulative sense, but sometimes it is by force of a context read as "or". MAXWELL ON INTERPRETATION OF STATUTES has recognised the above use to carry out the interpretation of the legislature. This has been approved by this Court in Ishwar Singh Bindra and Others Vs. State of U.P., . The principle of Noscitur A Sociis can profitably be used to construct the word "and may also" in the sub-rule.

34. A conjoint reading of Sections 8 and 9 makes it clear that it is the mandatory duty of the persons specified in the said Sections to give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, under the Act or the Rules framed thereunder, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under Sub-section (1) of Section 16.

35. The words "and shall also" take steps to inform himself employed in Section 7(2) of the Act, has to be read disjunctively and not conjunctively. Whenever, an intimation is given by the persons authorised under Sections 8 and 9 or Rule 6 of the Rules made thereunder, the Registrar has to enter the particulars in the register maintained for the purpose and if any information is received by the Registrar, either through the above said persons or others, he may either orally or in writing, require any person to furnish any particulars, within his knowledge in connection with the Birth or Death in the locality, within which, such person resides and after ascertaining the correctness of the particulars furnished, register the same under the Act.

36. Whenever an information is given by the persons mandated under Sections 8

or 9 of the Act. he shall enter in the Register maintained for the purpose, all the information. As per Rule 6 of the above said Rules, in respect of a birth or death in a moving vehicle, the person in-charge of the vehicle shall give or cause to be given the information under Sub-section (1) of Section 8 at the first place of halt. Here again, the said rule speaks only about the person; who is statutorily bound to give the information of birth or death in a moving vehicle. Sections 8 or 9 or the Rule 6 do not specifically state that only that Registrar, within whose jurisdiction, the birth or death occurred in a moving vehicle, is competent to register and no duty is cast on the Registrar, to whom, the information is furnished by others about the death, even it occurred outside the territorial jurisdiction of his limits, to register the death. At this juncture, it is relevant to consider the power of the Registrar to obtain information regarding the birth or death, conferred upon him, u/s 21 of the Act, which states that the Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition. Within his knowledge cannot be restricted to mean that only when information is given by such persons, mandated under the Act and the Rules, and not otherwise.

37. Merely because the Station Master, Kanpur, has not given the information to the first Respondent, it cannot be said, no other person can furnish the information about the death, which occurred in the train. Sections 8 and 9 of the Act or Rule 6 of the Rules, only casts a duty on the persons to give information. The rule only casts a duty on the above said person to furnish the information and does not prohibit any other person from giving an information. If such a narrow interpretation to the Sections and rule is given, then if the said persons fail to give information, then it cannot be contended that no registration of birth and death is permissible under the statutory provisions.

38. In view of the above, the contention that the Respondents have no statutory duty to register the death of the Petitioner's wife, within the State of Tamil Nadu, as the death had occurred in a moving train between New Delhi and Kanpur, is untenable.

39. In the light of the above discussion and following the judgments stated supra and of the factual admission on the part of the Respondents in the counter affidavit the dead body of the Petitioner's wife had been brought to Chennai and cremated within the jurisdiction of the first Respondent, the impugned communications are set aside and there shall be a direction to the Respondents to register the death of the Petitioner's wife to issue the death certificate of late Ms. Pankajam, wife of the Petitioner, after obtaining a declaration from him for registration, to the effect that the particulars sought to be registered are true and correct and that the particulars have not been registered anywhere else in India and also that the same does not run in conflict with particulars registered by any other authority outside India.

40. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.