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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19-11-2026

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

WP(MD) No. 33016 of 2026

CNR:{HCMD011629142026}

Case QR

AND

WMP(MD) Nos. 25331 & 25333 of 2026

1. Ganga

2. Harish Kumar

..Petitioner(s)

Vs

1. The Director of Medical Education and Research
   EVR Periyar Salai,
   Kilpauk,
   Chennai - 600 002Chennai

2. The Dean
   Authorization Committee For Renal Transplant,
   Rajaji Government Medical College and Hospital,
   Madurai

3. The Kidney Care Centre
   9D, Madurai Road,
   Tirunelveli.

..Respondent(s)

PRAYER: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.16287/Public-10/2026 dated 10.09.2026, and

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quash the same and consequently direct the respondents to approve the organ transplantation requisition of the 3rd Respondent relating to the petitioner.

For Petitioner(s) :Mr.S. Kumar

For Respondent(s) :Mr.R.Parthiban
Special Government Pleader

ORDER

The first petitioner asserts that she is the biological sister of the second petitioner. Both petitioners state that the second petitioner is suffering from kidney failure and requires urgent kidney transplantation. Considering this situation, the first petitioner states that she has voluntarily come forward to donate one of her kidneys to her brother out of love and affection and without any coercion, undue influence or monetary consideration.

2. The first petitioner further states that she and her husband have been living separately for a considerable period of time and that it is, therefore, not possible to obtain a No Objection Certificate from her husband. Upon receipt of communication dated 10.09.2026 stating that the first petitioner had not submitted documents with regard to her marital status, the petitioner has approached this Court challenging said order and seeking consequential directions to approve the request for organ

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transplantation.

3. Learned counsel for the petitioners submits that the petitioners were informed that the application could not be processed on account of the non-submission of No Objection Certificate from the first petitioner's husband. Relying on the judgment of the Delhi High Court in ***Neha Devi vs. Government of NCT of Delhi and others*** in W.P. (C)No. 8671 of 2022, order dated 30.05.2022 and the judgment of the Madhya Pradesh High Court in ***Annu Bai vs. the State of Madhya Pradesh and others*** in W.P.No.5166 of 2024, order dated 04.04.2024, learned counsel contends that the decision taken by the respondents is untenable.

4. Accepting notice for respondents 1 and 2, Mr.R.Parthiban, learned Special Government Pleader, submits in all fairness that relief was granted by this Court in similar circumstances in ***M.Maya Boopathi and another vs. The Authorisation Committee (Transplantation) and others, 2025:MHC:79***.

5. The matter is governed by the Transplantation of Human Organs and Tissues Act, 1994. Said statute deals with donation by near relatives and any other persons differently. Section 9(1) is as under:

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*"9. **Restrictions on removal and transplantation of human organs***

(1)*Save as otherwise provided in sub-section (3), no human organ removed from the body of a donor before his death shall be transplanted into a recipient unless the donor is a near relative of the recipient."*

6. As can be seen from the above provision, transplantation from the body of a donor to a recipient is not permitted except in the circumstances provided in subsection 3, unless the donor is a near relative of a recipient. The expression "near relative" is defined as under in Section 2(i):

> "2(i) "near relative" means spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson or granddaughter;"

7. Subject to establishing that the first petitioner is the biological sister of the second petitioner, she, therefore, qualifies as a near relative under the statute.

8. The procedure for donation of organs is prescribed in the Transplantation of Human Organs and Tissues Rules, 2014. Rule 18 deals with the procedure in case of near relatives. The documentary requirements specified in Rule 18 are evident from the following:

"18. Procedure in case of near relatives:

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(1) Where the proposed transplant of organs is between near relatives related genetically, namely, grandmother, grandfather, mother, father, brother, sister, son, daughter, grandson and granddaughter, above the age of eighteen years, the competent authority as defined at rule 2(c) or Authorisation Committee (in case donor or recipient is a foreigner) shall evaluate;

(i) documentary evidence of relationship e.g. relevant birth certificates, marriage certificate, other relationship certificate from Tehsildar or Sub-divisional magistrate or Metropolitan Magistrate or Sarpanch of the Panchayat, or similar other identity certificates like Electors Photo Identity Card or AADHAAR card; and

(ii) documentary evidence of identity and residence of the proposed donor, ration card or voters identity card or passport or driving license or PAN card or bank account and family photograph depicting the proposed donor and the proposed recipient along with another near relative, or similar other identity certificates like AADHAAR Card (issued by Unique Identification Authority of India).”

9. Thus, a No Objection Certificate from the husband of the first petitioner is not one of the documents required under Rule 18. Therefore, the insistence on a No Objection Certificate from the husband of the first petitioner is untenable. Consequently, the impugned communication is set aside and the respondents are directed to process the petitioners’ application for permission for transplantation in accordance with the Transplantation of Human Organs and Tissues Act, 1994 and Rules

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framed thereunder. Considering the urgent need for transplantation, the respondents are directed to complete the process as expeditiously as possible, preferably within one (1) month from the date of re-presentation of the application by the petitioners.

10. This Writ Petition stands disposed of on the above terms. There shall be no order as to costs. W.M.P.(MD) No.25331 of 2026 is ordered. Consequently, connected miscellaneous petition is closed.

19-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
apd

Note: Issue order copy on 19.11.2026.

To
1. The Director of Medical Education and Research
   EVR Periyar Salai
   Kilpauk
   Chennai - 600 002Chennai

2. The Dean
   Authorization Committee For Renal Transplant
   Rajaji Government Medical College and Hospital
   Madurai

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SENTHILKUMAR RAMAMOORTHY, J.
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