

pmw

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L.) NO.1995 OF 2015

Ms. Ashwini Ganghadhar Honakeri ... Petitioner
Versus
the Brihanmumbai Municipal Corporation ... Respondent

Mr. Vyas Hitesh Purshottam, for the Petitioner.
Mr. Vinod Mahadik, for the Respondent - BMC.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 4th AUGUST, 2015

PC.

. **Not on board. Taken on board.**

. Heard the learned counsel appearing for the Petitioner and
the learned counsel appearing for the Respondent–Municipal
Corporation. Prayer (a) of this Petition reads thus :-

“(a) That this Hon'ble Court be pleased to issue a writ of
mandamus, under Article 226 of the Constitution of
India, 1950, directing the Respondent herein to issue a
birth certificate in the name of my Client mentioning
her name thereon as 'Ashwini Gangadhar Honakeri'
mentioning the names of her adoptive parents i.e. Shri
Gangadhar Honakeri and Smt. Saraswati Honakeri.”

2. Our attention is invited to a certified copy of the decree dated 10th March, 2010 passed by the City Civil Court for Greater Bombay at Dindoshi in S.C. Suit No.268 of 2010. Prayer clause (B) in the said Suit reads thus :-

“(B) The adoption of Ms. Ashwini Gangadhar Honekari (earstwhile Ashwini Zende) (i.e. defendant No.3) by the plaintiff and defendant no.2 under adoption ceremony dated 15th August 2007 from the defendant no.1 may kindly be declared legal, lawful and valid.”

3. Plaintiff in the said suit Mrs. Saraswati Gangadhar Honakeri is the adoptive mother of the Petitioner. First Defendant Smt. Surekha Ashok Zende is the natural mother of the present Petitioner. The second Defendant in the suit Mr. Gangadhar Honakeri is the adoptive father of the Petitioner. The third Defendant in the suit is the Petitioner. The suit has been decreed in view of the consent terms. The consent terms are also placed on record. Clauses 1 to 3 of the consent terms read thus :-

- “1. The plaintiff, the defendants nos. 1 and 2 hereby admit and confirm that the adoption of defendant no.3 by the plaintiff and defendant no.2 under the Hindu Religious rites and ceremonies on 15th August 2007 from the defendant no.1 is legal, lawful and valid.
2. The plaintiffs and the defendants nos.1 and 2 admit and confirm that the deed of adoption dt. 31/8/2007

(exhibit C) in lieu of adoption dt.15/8/2007 has been validly executed by the surviving parent – defendant no.1, the plaintiff and the defendant no.2.

3. The plaintiff and the defendants nos.1 and 2 admit and confirm that there is a judicially recognized local custom and usage in Maharashtra (formerly Bombay State) wherein a person/ the defendant no.3 aged fifteen years and three months is allowed to be validly taken in adoption.”

4. The decree has been passed by the City Civil Court in terms of the said consent terms.

5. The Petitioner was required to approach this Court as the Medical Officer of Health of the Respondent – Corporation by a letter dated 20th August, 2013 took a view that an order of Magistrate will be required for inserting the name of the adoptive parents in the existing birth certificate of the Petitioner.

6. Today, the learned counsel appearing for the Respondent – Corporation has tendered across the Bar a letter dated 25th August, 2014 addressed by the Office of the Registrar General, India, Ministry of Home Affairs to all Chief Registrars of Births & Deaths. It records that adoption order as well as Adoption Deed are required for making/ changing entries in the birth record of the children taken in adoption.

7. The learned counsel appearing for the Petitioner states that a copy of Deed of Adoption dated 31st August, 2007 has been supplied to the Municipal Corporation. In open Court, he supplies one more copy to the learned counsel appearing for the Respondent which was handed over to Mrs. (Dr.) Naznin Khan, Medical Officer of Health P/N Ward in the Court.

8. In view of the decree passed by the Civil Court and in view of the production of the Adoption Deed, now there is no impediment in the way of correcting the record maintained in accordance with the Register of Births and Deaths Act, 1969 for the purposes of incorporating the name of the Petitioner after adoption and for incorporating names of her adoptive parents.

9. We direct the Respondent – Corporation to carry out necessary corrections in the record within a period of two weeks from today. After correction is carried out, necessary communication be issued to the Petitioner. The Petition is disposed of on above terms. All concerned to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)