

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 2236 of 2015 (D)

PETITIONERS:

1. MRIDULA CHANDY, AGED 34 YEARS,
W/O.NELSON MANUEL REGO,
KANAPPILLY HOUSE, 3B,
SUMMER CASTLE, SWARAGAM ROAD,
DESOM, ALUVA-683 102.
2. NELSON MA UEL REGO
S/O.SIMON F REGO, KANAPPILLY HOUSE, 3B
SUMMER CASTLE, SWARAGAM ROAD, DESOM
ALUVA-683 102.

BY ADV. SRI.SADCHITH.P.KURUP

RESPONDENTS:

1. CORPORATION OF COCHIN
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE,
ERNAKULAM-682 011.
2. THE DISTRICT REGISTRAR OF BIRTH AND DEATH,
CORPORATION OF COCHIN, CORPORATION OFFICE,
ERNAKULAM-682 011.
3. THE HEALTH SUPERVISOR,
CORPORATION OF COCHIN,
CORPORATION OFFICE,
ERNAKULAM-682 011.

BY ADV. SRI.P.K.SOYUZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 2236 of 2015 (D)

PETITIONER'S EXHIBITS:

EXT.P1.TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 17/10/2002
ISSUED BY THE CONSULATE GENERAL OF INDIA, DUBAI

EXT.P2.TRUE COPY OF THE BIRTH CERTIFICATE 3/3/2012 ISSUED BY 3RD
RESPONDENT TO PETITIONER

EXT.P3.TRUE COPY OF THE CERTIFICATE DATED 9/10/2012 ISSUED FROM
DR.JOY'S HOSPITAL FOR WOMEN AND CHILDREN TO THE 2ND
RESPONDENT

EXT.P4.TRUE COPY OF THE NOTARIZED AFFIDAVIT DATED 9/10/2013 GIVEN
BY THE PETITIONER

EXT.P5.TRUE COPY OF THE COMMUNICATION DATED 31/12/2013 ISSUED BY
THE 2ND RESPONDENT TO THE PETITIONER

EXT.P5(A).TRUE ENGLISH TRANSLATION OF EXT.P5

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.2236 of 2015 D

Dated this the 25th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, petitioners 1 and 2, ostensibly, are the wife and husband, the second petitioner being the putative father of a minor child born to the first petitioner. The expressions 'ostensibly' and 'putative' have been employed in view of the peculiar circumstances of the case.

3. Initially when the first petitioner was admitted in Dr.Joy's Hospital for Women and Children, Kochi for delivery, she reported to the hospital authorities that one

Mr.Premkumar was the father of the baby. Later, based on the application submitted by the first petitioner, the mother and the information supplied by the hospital, the second respondent issued the Birth Certificate of the baby recording the first petitioner and the said Mr.Premkumar as the parents, as could be seen from Exhibit P2.

4. Later, the first petitioner submitted another application along with Exhibit P4 affidavit to the second respondent seeking correction of the name of father, which was rejected through Exhibit P5 order. Under those circumstances, both the petitioners have filed the present writ petition.

5. It is the contention of the second respondent that the first petitioner herself submitted an application showing Mr.Premkumar as the biological father of the baby. The second respondent has also contended that their enquiries with the hospital in question have revealed that in the first

instance even the hospital records have reflected the name of Mr.Premkumar as the father. Accordingly, the second respondent justifies his rejection of the first petitioner's subsequent application for correction, as it does not amount to any clerical error.

6. The learned counsel for the petitioners has strenuously contended that at the time when the first petitioner gave birth to the baby, there had been strained relationship between the petitioners and that in fit of frustration, the first petitioner provided the name of an unconnected person to the second respondent as the father of the child. In this regard, he has drawn my attention to a sworn affidavit filed by the second respondent explaining the circumstances under which the first petitioner gave the name of one Mr.Premkumar, instead of his own.

7. The learned counsel for the petitioners has also drawn my attention to Exhibit P3 certificate issued by

Dr.Joy's Hospital certifying to the effect that the second petitioner is the biological father of the baby and that the name of Mr.Premkumar was wrongly reported initially.

8. When this Court put a specific query to the learned counsel for the petitioner why said Mr.Premkumar was not made a party to the proceedings, he has submitted, on instructions, that said Premkumar is non-existent and the name as simply used is only in view of the temporary matrimonial discord between the petitioners at the time of child's birth.

9. Be that as it may, the mother and the putative father have come before this Court filing sworn statements that the baby's biological father is the second petitioner. It is well established principle of law that a mere certificate issued by the authorities such as the second respondent is not the conclusive proof of paternity nor does it deprive any other person of any right over the child based on the

certificate issued on the strength of a self serving statement issued by the putative parents.

10. Under these circumstances, this Court is of the considered opinion that after obtaining the necessary undertaking from the petitioners that change in the name of the father in the Birth Certificate is not to the prejudice of any other person, the second respondent may process the first petitioner's application and correct the father's name by incorporating the name of the second petitioner and issue a fresh certificate as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

With the above observation the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

tkv