

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 16049 of 2015 (E)

PETITIONER(S) :

- 1. PETER MOHAN T.A, AGED 52 YEARS,
S/O.THARAYIL ANTONY, RESIDING AT EAST KOMBARA DESOM,
IRINJALAKUDA P.O, MANAVLASSERY VILLAGE,
THRISSUR DISTRICT.**
- 2. MRS.ROSMI P.O,
W/O.PETER MOHAN T.A, RESIDING AT THARAYIL HOUSE,
EAST KOMBARA DESOM, IRINJALAKUDA P.O.,
MANAVLASSERY VILLAGE, THRISSUR DISTRICT.**

BY ADV. SRI.T.N.MANOJ

RESPONDENT(S) :

- 1. KODUNGALLUR MUNICIPALITY,
KODUNGALLUR P.O, REPRESENTED BY THE SECRETARY- 680 121.**
- 2. THE HEALTH INSPECTOR & REGISTRAR OF BIRTH AND DEATHS,
KODUNGALLUR MUNICIPALITY, KODUNGALLUR P.O.,
THRISSUR DISTRICT- 680 121.**

**BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR
SRI.M.P.ASHOK KUMAR
SRI.TITU MANI
SRI.SANTHOSH MATHEW**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE BIRTH CERTIFICATE DATED 24.03.2015.**
- EXHIBIT P2: TRUE COPY OF THE SECONDARY EXAMINATION CERTIFICATE
APRIL 2010.**
- EXHIBIT P3: TRUE COPY OF THE AADHAR CARD.**
- EXHIBIT P4: TRUE COPY OF THE DRIVING LICENCE DATED 07.07.2010.**
- EXHIBIT P5: TRUE COPY OF THE CERTIFICATE DATED 11.02.2015 OF VILLAGE
OFFICER MANAVALASSERY.**
- EXHIBIT P6: TRUE COPY OF THE ADVERTISEMENT MADE IN JANAYUGAM
DAILY DATED 01.04.2015.**
- EXHIBIT P7: TRUE COPY OF THE ADVERTISEMENT MADE IN DEEPIKA DAILY
DATED 30.03.2015.**
- EXHIBIT P8: TRUE COPY OF THE AFFIDAVIT FILED BY THE PETITIONERS.**
- EXHIBIT P9: TRUE COPY OF THE ORDER/LETTER DATED 08/05/2015 OF
THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16049 of 2015

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Dated this the 3rd day of July, 2015

JUDGMENT

Aggrieved by the order passed by the respondent municipality refusing to correct the entries in the birth certificate of the petitioners' son, the petitioners have come up before this Court.

2. The petitioners are husband and wife. The petitioners allege that the exact and original name of the first petitioner is Peter Mohan T.A and that of the second petitioner is Rosmy P.O. Due to an inadvertent omission occurred while entering their names in their respective school certificates, the name of the first petitioner was shown as Mohan and that of the second petitioner was shown as Minnu Rosmi; it is alleged. The petitioners further allege that by mistake, in the birth certificate of their son Aji Rojan Peter, the name of the father was shown as Mohan and name of the mother was shown as Minu Mohan

3. The petitioners further allege that in all the communications, correspondences and other certificates, which originally stand in the name of Shri Aji Rojan Peter, the son of the

petitioners, the name of his father was correctly shown as Peter Mohan T.A and the name of his mother was shown as Rosmy P.O.

4. The petitioners' son secured a job viza to go abroad. When he applied to get his viza stamped and to renew his passport, he was asked to produce his birth certificate. The difference in the name of the parents entered in the certificate was then noticed and the authorities of the passport office expressed their inability to renew the passport. As a result of that, the viza could not be stamped. Therefore, the petitioners approached the respondents and applied to correct their names shown in the birth certificate of their son, in conformity with the original names.

5. The petitioners have obtained a certificate from the Village Officer certifying that both Peter Mohan T.A as well as Rosmy P.O are one and the same and they are respectively Mohan and Minu Rosmy. They have made a publication in the some dailies wherein they have unequivocally declared that they have changed their respective names. The petitioners have produced affidavit along with the certificates issued by the municipal councilors to support their contention that the original names of Mohan is Peter Mohan T.A and that of Minnu Mohan is Rosmy P.O.

6. The second respondent by the impugned order dated 8.5.2015 rejected the application for issuance of a birth certificate observing that the correction of the parents can be made only in conformity with their names in their school register along and not otherwise.

7. In the counter affidavit filed by respondents 1 and 2, they would contend as follows:

Petitions were submitted by the petitioners for issuance of birth certificate of their son Aji Rojan Peter with the name of father to be corrected as Peter Mohan T.A and the name of the mother to be corrected as Rosmy P.O before the second respondent. According to the respondents, the petitioners' son was born on 1.12.1991 at K. J. Hospital, Kodungallur and thereafter on 3.1.1995 birth certificate has been issued in the name of Aji Rojan Peter. It was stated that in that certificate, the name of the father is stated as Mohan and that of the mother is stated as Minu Mohan.

It was further stated that Ext.P9 intimation was given in response to the application filed by the petitioners for issuance of birth certificate of their son, viz., Aji Rojan Peter with the name of the father to be corrected Peter Mohan T.A and the name of the

mother to be corrected as Rosmy P.O. It was further stated that as per Circular No.B1-20741/2009 dated 8.12.2010 issued by the Panchayat Director, it was stated that change of parents name instead of their pet name in the birth certificate can be effected on the basis of school certificates and further enquiries made by the authorities.

It was further stated that the petitioners are having SSLC and BA education qualifications and that they were directed to produce relevant educational documents so as to correct their names in the birth certificate of their son. However, the petitioners have not produced the relevant educational certificates to prove the correction needed in the birth certificate. The respondents state that they are ready to issue the birth certificate with correction needed by the petitioners only on production of relevant educational documents to prove the correction needed.

8. I have heard the learned counsel for the petitioners and the learned standing counsel for the respondent municipality.

9. It appears from the impugned order that the rejection was on account of the circular issued by the Government. This Court had occasion to consider a similar situation in **Chalakudy**

Municipality v. **Malavika** [2009 (4) KLT 714] wherein it was observed that going by the purpose of the enactment and the scheme for registration and for correction in the entries therein, it is unambiguously clear that corrections either in form or substance is permissible. The only pre-condition is that the Registrar should be satisfied that the entry in the register regarding birth or death was erroneous in form or substance or the same has been fraudulently or improperly made. The entry in the register means the entries on the name and the particulars regarding the relationship, place and date; so observed this Court. It was further observed that the identity of the person concerned is the crucially relevant factor, as far as correction of the name is concerned and as far as the correction of the date, place and other particulars are concerned, in case there had been any mistake in the original entry and if the registrar is satisfied that the same is erroneously entered, he has to exercise his power to permit the correction. It was held that the law does not contemplate a person to have a wrong name in the register or a mistaken identity in the register or to have wrong particulars regarding the date, place etc., in the register of birth or death.

10. This view was later endorsed by another Division Bench of this Court in **Registrar of Births and Deaths v. Thomas Jacob** [2011(3) KLT 461] holding that either Section 15 of Registration of Births Act, 1995 or Rule 11 of the Rules made thereunder does not lay down any restriction or inhibition on the part of the authority to make necessary correction in the certificates.

11. A combined reading of sub-rule (2) of Rule 11 and Sections 14 and 15 of the act makes it clear that correction of the names in the birth certificate can be made if the assertion made by the parties are true and further the said entries were made either by improper means or by mistake.

12. Here, the learned counsel for the petitioners invited my attention to Ext.P2 which is the copy of secondary examination certificate, Ext.P3 which is the copy of the Aadhar Card, Ext.P4 which is the copy of the driving licence and Ext.P5 which is the copy of the certificate issued by the Village Officer, Manavalssery in support of the claim of the petitioners that the name of the first petitioner is Peter Mohan T.A and the name of the second petitioner is Rosmy P.O. It was also pointed out that the petitioners have

given Exts.P6 and P7 advertisements in local dailies asserting correction of their names as above. Therefore, this Court is of the view that the petitioners are entitled to get the relief prayed for in the writ petition.

In the result, the writ petition is allowed. Ext.P9 is quashed and the respondent municipality is directed to issue new birth certificate correcting the name of the petitioners' son as Aji Rojan Peter incorporating the correct name of his father as Peter Mohan T.A and the name of the mother as Rosmy P.O. This shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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