

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.6.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.670 of 2016
and
C.M.P.No.8785 of 2016

The Commissioner,
The Pallavaram Municipality,
Chromepet, Chennai 600 044. Appellant/Respondent No.2

Versus

1. S.K.Syed Rafiullah
2. The District Collector,
Collectorate,
Kancheepuram District. Respondents/Writ
Petitioner/1st Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 7.1.2016 passed in W.P.No.30766 of 2015 on the file of this court.

Writ Petition filed under Article 226 of the Constitution of India seeking writ of Certiorarified Mandamus to call for the records of the 2nd respondent and quash the impugned order dt 8.5.2015 in Na. Ka. No.1746/2015/H1 direct the 2nd respondent to issue a fresh correct birth certificate to the petitioners son Master R.Amanullah.

For appellant : Mr.P.Srinivas
For R1 : Ms.V.Preetha
For R2 : Mrs.Sri Jayanthi, Special Govt.
Pleader

JUDGMENT

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the appellant-Commissioner, Pallavaram Municipality, learned counsel for the first respondent and the learned Special Government Pleader for the second respondent.

2. By impugned order, the learned Single Judge allowed the writ petition and thereby the order passed by the appellant was quashed and the appellant was directed to issue Birth Certificate to the son of the first respondent herein, who was born on 1.11.2012 and correct the same as R.Amanullah as per the publication made in the Government Gazette dated 9.10.2013, within a period of three weeks. This order is under challenge on the ground that as per Section 15 of the Registration of Births and Deaths Act, 1969, no such correction can be made, etc.

3. Under Section 15 of the abovesaid Act, what is contemplated is that if it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under the Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alternation of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. The above section provides the procedure to be followed by the Registrar on such application being made. He is vested with the power to correct the error or cancel the entry by suitable entry in the margin, without any alternation of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. It does not necessarily mean that the entry cannot be made by way of alteration. What is contemplated is that in the place of entries being made, on satisfaction of the Registrar, he can only make a marginal entry and not alter the original entry.

4. Anyhow, it is not even a question of change or alteration of date of birth or death. It is only the change of name of the minor child based on a publication in the Government Gazette. Therefore, the Officer concerned is duty bound to change the name and issue the Birth Certificate afresh and it will not be in violation of section 15 of the abovesaid Act. As such, we do not find any merit in the appeal filed by the Commissioner of Pallavaram Municipality and the same is dismissed.

5. Accordingly, the writ appeal is dismissed. The appellant-Commissioner of Pallavaram Municipality is to do the needful as directed by the learned Single Judge within a period of fifteen days from today and issue the Birth Certificate afresh after changing the name and retaining the same date of birth as mentioned in the original entry. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To:

The District Collector,
Collectorate,
Kancheepuram District.

+1cc to Mr.P.Srinvas, Advocate, S.R.No.31223

+1cc to the Government Pleader, S.R.No.31541

W.A.No.670 of 2016

gj[col]
srg 06/07/2016

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