

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2016

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.29082 of 2016

M.Thangadurai

.. Petitioner

vs

Registrar of Births and Deaths
Pondicherry Municipality
Puducherry.

.. Respondent

Petition filed under Article 226 of the Constitution of India, praying this Court for the issuance of a writ of mandamus to direct the respondent to receive and number the petition dated 7th June, 2016 filed by the petitioner for correction of petitioner's name as "Thangadurai" instead of "Durai" in the birth certificate of petitioner's son by name Sowriraja vide Registration No.M/2001/18238 dated 27.12.2011 issued by the respondent and decide the same in accordance with law.

For Petitioner ... Mr.R.Thiagarajan

For Respondent ... Mr.C.T.Ramesh
Additional Government Pleader
(Puducherry)

ORDER

The prayer in the writ petition is for the issuance of a writ of mandamus to direct the respondent to receive and number the petition dated 7th June, 2016 filed by the petitioner for correction of his name as "Thangadurai" instead of "Durai" in the birth certificate of petitioner's son by name Sowriraja vide Registration No.M/2001/18238 dated 27.12.2011 issued by the respondent and decide the same in accordance with law.

2. The case of the petitioner is that, his son Sowriraja was born on 14.12.2001 and he is presently studying in X standard. The petitioner had applied for birth certificate of his elder son, viz., Sowriraja and the Certificate was issued by the respondent on 02.03.2016 stating the father's name as "Durai" instead of "Thangadurai". Therefore, to correct the same, the petitioner has approached the respondent by filing a petition under Section 15 and Rule 13 of the Registration of Births and Deaths Act, 1969 and Rules [hereinafter referred to as "Act"]. However, the said petition was returned stating that

the Municipality cannot entertain any case directly from the parties and directed the petitioner to approach the Civil Court. Challenging the same, the petitioner has come forward with this writ petition, stating that the petitioner is entitled to get the error corrected as per Section 15 and Rule 11 of the Pondicherry Registration of Births and Deaths Rules, 1999.

3. Heard Mr.R.Thiagarajan, learned counsel appearing for the petitioner and Mr.C.T.Ramesh, learned Additional Government Pleader(Pondicherry), who took notice on behalf of the respondent.

4. The learned Additional Government Pleader appearing on behalf of the respondent would submit that as per Section 15 of the Act, corrections if any in the birth certificate can be made only in the margin, if any error has occurred in the Certificate issued by the authorities and there is no possibility of issuing any fresh certificate with corrected names.

5. Learned counsel for the petitioner, in support of his contention had enclosed the following Government documents, issued to the petitioner viz.,

(i) The transfer certificate dated 15.06.1990

(ii) Ration card issued in the year 2005

(iii) Voter's Identity card dated 05.01.2012

(iv) Driving Licence dated 27.05.2009.

He had also enclosed the Aadhar Card issued to his son, viz., Sowriraja wherein the father's name has been mentioned as S.Thangadurai.

6. A perusal of all the above documents would disclose the name of the petitioner as "S.Thangadurai" and not "Durai" as mentioned in Column No.6 of the Birth Certificate issued by the respondent in favour of the petitioner's son Sowriraja. Therefore, the entry made in Column No.6 of the Birth Certificate issued to the petitioner's son has to be corrected in accordance with law.

7. Section 15 of the Act, makes it very clear that if any error has occurred or erroneous entry has been made in the Certificates issued, on satisfaction, the authorities can correct the entries, by making suitable entries in the margin without any alteration of the original entry. Similarly, Rule 11 of the the Pondicherry Registration of Births and Deaths Rules, 1999 speaks about correction or cancellation of entry in the register of births and deaths. The Rule is also in consonance with Section 15 of the Act.

8. Under similar circumstances, this Court in the case of Eesha Kumar vs. The Assistant Commissioner, Coimbatore City Municipal Corporation, West Zone, Coimbatore and another

reported in 2011(5) CTC 620 had directed the authorities concerned to correct the names in accordance with law.

9. Inasmuch as the Registration of Births and Deaths is the Central legislation, it covers entire India and therefore, the dictum laid down in the above judgment, squarely applies to the case on hand also.

10. In view of the above, the impugned order passed by the respondent is set aside and that the petitioner is directed to re-submit his application/petition for making correction in column No.6 of the Birth Certificate issued to his son, viz., Sowriraja. On such re-representation being made, the respondent is directed to make the correction in the Birth Certificate issued to the petitioner's son Sowriraja, as per the procedure contemplated under Section 15 of the Act, 1969 and Rule 11 of the the Pondicherry Registration of Births and Deaths Rules, 1999 and in the light of the judgment of this Court cited supra, within a period of two weeks, thereafter.

11. With the above direction, the writ petition is disposed of. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

The Registrar of Births and Deaths
Pondicherry Municipality
Puducherry.

+1 CC to Mr. R. Thiagarajan, Advocate, Sr.No.47738

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MSM (CO)
MD 07/09/2016