

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2016

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.785 of 2016

E.Sushil Kumar

.. Petitioner

Vs.

1.City Health Officer,
Department of Public Health,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

2.A.Gayathri

..Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent no.1 herein to consider the representation dated 16.12.2015 given by the petitioner within a specified time frame.

For Petitioner : M/s.Shreshta.R

For Respondent No.1 : Mr.P.V.Selvakumar

ORDER

It is the case of the petitioner that he got married to the second respondent on 11.03.2012 and that the second respondent gave birth to a baby boy on 28.11.2012. After some dispute between the petitioner and the second respondent arose, the petitioner grew suspicion over the birth of the child. Thereafter, the petitioner has approached the Family Court by way of filing H.M.O.P. for divorce and the same is pending. In the meantime, the petitioner made an application dated 16.12.2015 to the first respondent / City Health Officer, Corporation of Chennai, seeking to remove his name from the records of the Corporation as biological father of the child, namely, Udhaya Karthikeyan. Since the said representation is not disposed of, the present Writ Petition has been filed.

2.Learned counsel appearing for the petitioner submitted that in view of the documents produced, namely, DNA Test and Scan Report, the first respondent has to consider the representation dated 16.12.2015.

3.This Court is not inclined to entertain the Writ Petition. Under the Indian Evidence Act, there is a presumption that the petitioner is the father of the child. It is for the petitioner to dispel the said presumption before the jurisdictional Court. The DNA Test and the Scan Report are, at best, pieces of evidence to be appreciated by the concerned Court. There is no public duty imposed on the first respondent to consider the representation made by the petitioner. It is a mere private issue between the petitioner on the one hand and the second respondent on the other hand. Therefore, writ of mandamus cannot be issued against the first respondent.

4.Accordingly, the Writ Petition stands dismissed. However, liberty is given to the petitioner to seek appropriate relief before the concerned forum, if so advised. No costs.

sd/-

Assistant Registrar(Cs-IV)

/TRUE COPY/

Sub-Assistant Registrar

To,

1. City Health Officer,
Department of Public Health,
Corporation of Chennai,
Rippon Building,
Chennai - 600 003.

+1 CC to MR.P.V.Selvakumar Advocate. SR.NO.1750

+2 CC to MR.R.Shreshta Advocate. SR.NO.1881

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CO-CTK

JD 22/01/2016