

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.11222 of 2008

ORDER:

The petitioners are the wife and son of one Shah Hameed, who was an employee of Bombay Mercantile Cooperative Bank Limited in Maharashtra. He died on 30.03.1993 at Medwin Hospital, Hyderabad. The Municipal Corporation of Hyderabad has issued a death certificate on 03.05.1993. While so, the respondents 2 and 3 made a complaint before the Mandal Revenue Officer on 31.05.2000 for cancellation of the legal heir certificate issued by him on 07.03.1994. The Mandal Revenue Officer, Bahadurpura Mandal, Hyderabad after examination of the matter rejected the application.

The petitioners filed O.S. No.3 of 2000 before the Judge, Family Court, City Civil Court, Hyderabad seeking for partition and separate possession of Matruka property, rendition of accounts and perpetual injunction against the respondents 2 and 3 and their legal heirs. In the said suit, respondents 2 and 3 entered into a compromise with the petitioners admitting share in the Matruka property, but the respondents 2 and 3 filed a petition before respondent No.1 under Section 13(3) of the Registration of Births and Deaths Act, 1969 for cancellation of the birth certificate issued earlier in favour of the petitioners. Though respondent No.1 tried to serve notices on the petitioners herein because of change of residence, notices could not be served. Respondent No.1, taking into consideration the material submitted by respondents 2 and 3, cancelled the proceedings issued earlier in File No.D/1138/1995 dated 04.12.1995 and directed the Registrar of Births and Deaths to cancel the birth certificate of Qutubuddin Pervaz. Challenging the said order, the present writ petition was filed.

Learned counsel for the petitioners submits that the birth certificate of petitioner No.2 was cancelled by virtue of the impugned proceedings and in view of the compromise decree dated 16.08.2010 passed by the learned VIII Additional Senior Civil Judge (F.T.C), City Civil Court, Hyderabad in O.S. No.3 of 2000, there cannot be any dispute with regard to the relationship of petitioner No.2 as son of the deceased Shah Hameed.

However, this Court is not inclined to straight away accept the said submission, but in view of the non-service of notice on the petitioners and passing an order at the instance of the respondents 2 and 3 by respondent No.1, the impugned order dated 28.02.2008 is set aside and the matter is remanded to respondent No.1 to pass fresh orders in accordance with law after considering the material submitted by the petitioners. The petitioners are given liberty to intimate respondent No.1 with regard to their current place of residence and also the material available with them for taking a proper decision in the matter.

With the above directions, this writ petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

15.02.2016

MVA