

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 18672 of 2017

R. Jayaraman

..Petitioner

Vs.

1. The Director of School Education
(Matriculation),
DPI Complex, College Road,
Chennai - 6.
2. The Principal,
M/s. Jaigopal Garodia Hindu
Vidyalaya Matriculation School,
Postal Colony, IV Street,
West Mambalam,
Chennai - 600 033.
3. Mrs.V. Bala Bhuvaneshwari ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 2nd respondent to issue Transfer Certificate and other records of J. Hariesh Krishna who was studying in VII Standard A Section in the 2nd respondent school pursuant to the petitioner's request dated 09.06.2017.

For Petitioner :: Mr.V. Ramesh for
Mr.T. Thiyagarajan

For Respondents:: Mr.T.M. Pappiah
Special Govt. Pleader
for R1
Mr.K.S. Vaithianathan
for R2
Mr.V. Balasubramani
for R3

O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing the 2nd respondent to issue Transfer Certificate and other records of J. Hariesh Krishna who was

studying in VII Standard A Section in the 2nd respondent school pursuant to the petitioner's request dated 09.06.2017.

2. The case of the petitioner is that his brother-in-law and his wife, the 3rd respondent herein, were blessed with a male child 09.06.2004 and he was named Hariesh Krishna. Since the petitioner and his wife were issueless, the said Hariesh Krishna was given in adoption by petitioner's brother-in-law and his wife/3rd respondent herein to the petitioner in September, 2004. An adoption deed was also executed by the natural parents, in favour of the adoptive parents, on 05.10.2005. Based on the adoption deed, the said Hariesh Krishna was admitted in a school in Hyderabad where the petitioner was residing. After the child completed his Upper Kindergarten, the petitioner shifted his place of business and residence from Hyderabad to Chennai during May, 2010 and the child was put in the 2nd respondent school in I standard and the petitioner's name was shown as the father of the child in the school records. While so, the petitioner's wife passed away on 12.10.2015 and his brother-in-law/ husband of the 3rd respondent passed away about six months earlier. When the child was promoted to IV standard, the 3rd respondent had approached the 2nd respondent to change the initial and father's name of the child in the records. Though, initially, the 2nd respondent refused to do so, but, thereafter, it was changed. However, on the petitioner's objection, the records were rectified once again. Even thereafter, the 3rd respondent had approached the 2nd respondent school for the said purpose, which was obliged to and again, on the objection of the petitioner, the records were corrected. While so, since the petitioner intended to shift his residence to Anna Nagar, he approached the 2nd respondent on 09.06.2017 to issue the transfer certificate and other certificates of the petitioner's adopted son so that he could be admitted in a school in Anna Nagar, which was refused to be issued by the 2nd respondent, based on the objection given by the 3rd respondent. Hence, the petitioner has approached this Court.

3. Heard Mr.V.Ramesh, learned counsel for the petitioner; Mr.T.M. Pappiah, learned Special Government Pleder for the 1st respondent; Mr.K.S. Vaithianathan, learned counsel for the 2nd respondent and Mr.V. Balasubramani, learned counsel for the 3rd respondent.

4. It is admitted by the 3rd respondent that the child, namely, Hariesh Krishna, has been living with the petitioner from 2004 onwards and she started demanding the return of the child from 2015 onwards. The petitioner relies upon the adoption deed dated 05.10.2005 in support of his case. However, the said deed, according to the 3rd respondent, is a fabricated document. If any challenge is to be made to the adoption deed, it has to be made before the appropriate forum.

Admittedly, the child has been with the petitioner right from 2004 onwards. Even in the absence of the adoption deed, it could be easily understood that the child has been given to the petitioner only on adoption as no natural parents would allow their son, that too, after a few months of his birth, to live with their relation, unless there is an understanding, either orally or by way of a written document. The school certificates produced before this Court with regard to the child would show that the petitioner has been shown as the father of the child. Moreover, it is the petitioner, who admitted the child in the 2nd respondent school and the school records would also prove the same. Therefore, the 2nd respondent school is duty bound to issue the certificates sought by the petitioner, dehors the claim of the 3rd respondent. Therefore, the 2nd respondent is directed to issue the transfer certificate and other records/certificates of the child to the petitioner within one week from the date of receipt of a copy of this order. The writ petition is disposed of with the above direction. No costs.

5. It is needless to state that if the 3rd respondent has got claim over the child, then it is always open to her to approached the appropriate forum seeking appropriate relief.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Director of School Education
(Matriculation),
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Chennai - 6.

2. The Principal,
M/s. Jaigopal Garodia Hindu
Vidyalaya Matriculation School,
Postal Colony, IV Street,
West Mambalam,
Chennai - 600 033.

+ 1 cc to Mr.T. Thiyagarajan Advocate, SR.78861
+ 1 cc to M/s.K.Chandrasekaran, Advocate, SR.79107
+ 1 cc to M/s.M.Arunachalam, Advocate, SR.79052
+ 1 cc to The Govt.Pleader, SR.79308

W.P. No. 18672 of 2017

MG (CO)
NR 04/12/2017