

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.7450 of 2017

ORDER:

In this CRP, the petitioner challenges the order dated 14.11.2017 in O.P.No.569/2016 passed by the learned Chief Judge, City Civil Courts, Hyderabad, refusing to mark the birth certificate with Registration No.18761 of child of R-4 viz., A.Raghavendra showing date of birth as 29.11.2006 as Ex.A.17.

2) It is to be noted that 4th respondent in Election O.P.No.569/2016 filed CRP No.4941/2017 challenging the order dated 07.09.2017 in I.A.No.945/2017 passed by the Chief Judge, City Civil Court, Hyderabad, allowing the petition filed by the petitioner herein to mark documents bearing Sl.Nos.1 to 17 as exhibits on her behalf in O.P.

3) This Court disposed of the said CRP on 23.10.2017 holding that documents 1 to 11 can be marked as exhibits and so far as documents 12 to 17 are concerned, since GHMC is the 2nd respondent in the O.P, as such GHMC shall produce the original records pertaining to documents 1 to 17 before the Trial Court and upon comparison of the originals with the documents 12 to 17, the Trial Court can mark them as exhibits.

4) Thereafter, it appears, the trial took place and the Trial Court marked documents 1 to 11 as Exs.A.1 to A.11. Sofaras documents 12 to 17 are concerned, since the GHMC produced the original registers pertaining to documents 12 to 16, the Trial Court upon comparison

marked documents 12 to 16 as Exs.A.12 to A.16. Sofaras document No.17 is concerned, though original register pertaining to document No.17 was produced by GHMC, Page No.1 therein was in torn condition and as the original entries pertaining to document No.17 were not found in the original register, the Trial Court refused to mark the document No.17 as Exs.A.17.

Hence the instant CRP.

5) Heard arguments of Sri J.Prabhakar, learned counsel for petitioner and Sri Pramod Singh, learned counsel for 4th respondent.

6) Fulminating the impugned order, learned counsel for petitioner would submit that the document No.17 is a birth certificate with Registration No.18761 of child of R-4 viz., A.Raghavendra showing his date of birth as 29.11.2006 and the said document was obtained from MeeSeva maintained by the GHMC and the original of the said document is a public document within the meaning of Section 74 of Indian Evidence Act and therefore, the Trial Court ought to have marked the said document as Ex.A.17 despite the entries pertaining to document No.17 in original record were torn-off. He would forcefully argue that proposed document being a certified copy issued from the original register, it is admissible as secondary evidence under Section 65(e) of Indian Evidence Act. He would contend that after he obtained document No.17 from MeeSeva, R.4 managed the officials of GHMC and saw that the original record was torn-off and manipulated new entries in the place of originals, against which act the petitioner has

already lodged complaint and the petitioner can establish all these facts during the arguments in O.P.No.569/2016 and he may be given an opportunity to establish his case by permitting him to mark document No.17 as Ex.A.17. Learned counsel would fairly concede that mere admission of the document in evidence is not be all and end all of the matter and the burden rests on him to establish that he obtained document No.17 with its contents therein from the MeeSeva of GHMC and that he has not manipulated the contents in document No.17.

7) In oppugnation, learned counsel for 4th respondent while supporting the impugned order would argue that in CRP No.4941/2015, this Court directed to mark documents 12 to 17 upon producing their originals by the GHMC and since the original of document No.17 was not produced, the Trial Court rightly refused to mark the said document and there is no illegality in the said order. He would vehemently contend that the document No.17 is a fabricated one since no material is produced to show that said document was obtained from MeeSeva of GHMC and it contained original document. He thus prayed to dismiss the CRP.

8) In the light of above rival arguments, the point for determination is:

“Whether there are merits in the CRP to allow?”

9) **POINT**: As can be seen from the impugned order, the Trial Court refused to mark document No.17 on the ground that the original record

pertaining to it was not produced by GHMC as Page No.1 at Sl.No.18761 in the original register was in torn condition. The case of the petitioner is that he obtained document No.17 from the MeeSeva of GHMC and it is a certified copy of the original and since the proposed document relates to the entries in birth register, the same comes under Section 65(e) of Indian Evidence Act and hence the said document can be marked as secondary evidence.

a) I find force in the above submission. The narration of document No.17 is that it is birth certificate with Registration No.18761 of the child of R-4 viz., A.Raghavendra showing the date of birth as 29.11.2006. The document in question is thus the birth certificate of the child of R.4 namely A.Raghavendra. There can be no demur that extract of births and deaths prepared and issued in terms of Sections 12 and 17 of Registration of Births and Deaths Act, 1969 is a public document. In similar circumstances, the High Court of Orissa in a decision reported in *Siba Prasad Jena v. Puspanjali Jena and another*¹, held that when a certificate was issued under Section 17(2) of Registration of Births and Deaths Act, the said certificate is admissible as a public document. So if document No.17 is issued by the GHMC, the same is admissible in evidence under Section 65(e) r/w Section 36 of Indian Evidence Act. However, the bone of contention in the instant case is whether the document No.17 was issued by GHMC and whether it is an authenticated document. Since *prima facie*, the document is a birth

¹ MANU/OR/0584/2007 = 104(2007) CLT 410

certificate, in my view the said document can be marked as an exhibit on behalf of the petitioner subject to proof of its authenticity.

11) Therefore, the C.R.P is allowed and the Trial Court is directed to mark the document No.17 as exhibit on behalf of the petitioner subject to petitioner proving its authenticity during hearing of OP. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 15.06.2018
scs

U.DURGA PRASAD RAO, J

