

O.P.No.910 of 2019

SENTHILKUMAR RAMAMOORTHY ,J.

This petition is filed for appointment of the first petitioner as the father of the minor child S.Aditya with consequential legal rights of succession and inheritance and also for issuance of an amended Birth Certificate to the child S.Aditya.

2. I heard the learned counsel for the petitioner.

3. The learned counsel submitted that the minor child was born to the second petitioner and her ex-husband, S.Shanmuga Sundaram. He further submitted that the second petitioner and the said S.Shanmuga Sundaram obtained a decree of divorce in O.P.No.28 of 2005 on 17.08.2005 from the Family Court, Salem.

4. The said decree was pronounced on the basis of a compromise, whereby, the said S.Shanmuga Sundaram agreed not to claim custody of the child from the second petitioner herein and the second petitioner agreed not to claim maintenance either for her or for the child, including in future.

5. He further submitted that evidence was adduced in this matter by examining the first petitioner as P.W.1 and the second petitioner as P.W.2 and during the evidence of P.W.1, the following documents were marked as

Exs.P1 to P10 and during the evidence of P.W.2, the following were marked as Exs.P11 and P12. The documents thus marked are tabulated below:

Exhibits	Description of Documents
Ex-P1	The photocopy of first petitioner's Aadhaar card bearing No.9364 6855 9660 (Marked after comparing and verifying with the original)
Ex-P2	The photocopy of the Extract of Hindu Marriage Register kept by the Marriage Registrar Office at Mylapore for the proof of first petitioner's marriage with the second petitioner(Marked after comparing and verifying with the original)
Ex-P3	The Photocopy of the first petitioner's 12 th mark sheet bearing certificate No.B 126275 (Marked after comparing and verifying with the original)
Ex-P4	Declaration of willingness
Ex-P5	The photocopy of the first petitioner's PAN card bearing No.AWDPS9982N (Marked after comparing and verifying with the original)
Ex-P6	The photocopy of the minor child S.Aditya @ S.Bharani Dharan
Ex-P7	Income certificate dated 31.08.2019 given by P.Seetharaman, Manager, Viduthalai.
Ex-P8	The original consent form under schedule XX of the Adoption Regulations.
Ex-P9	The photocopy of the birth certificate of minor S.Bharani Dharan, who was born on 11.07.2004 (Marked after comparing and verifying with the original)
Ex-P10	The photocopy of the Tamil Nadu Government Gazette notification dated 26.08.2009 for the name change of the minor child along with the copies of the paper publication for name change (Marked after comparing and verifying with the original)
Ex-P11	The photocopy of second petitioner Divorce Decree dated 11.02.2005 in F.C.No.28 of 2005 passed by the Family Court, Salem.
Ex-P12	Second petitioner's declaration of willingness.

6. He further submitted that the marriage of petitioners 1 and 2, took place on 28.01.2007 and the same has been registered. He also pointed out that the present petition has been filed so as to establish the legal status of father and son as between the first petitioner and the minor child so as to enable the minor child to receive all the benefits of succession and inheritance. He also pointed out that it would be in the paramount interest and welfare of the child, if the present petition is allowed so as to confirm the legal relationship of father and son as between the first petitioner and the child. For all these reasons, he submitted that this petition may be allowed.

7. I considered the submissions of the learned counsel and also examined the evidence recorded in the matter. The evidence of P.W.1 shows the extract of the Hindu Marriage Register, as proof of marriage between the first and second petitioner, which has been marked as Ex.P2. The declaration of willingness has been marked as Ex.P4. The consent form under Schedule XX of the Adoption Regulation has been marked as Ex.P8. The income certificate of the first petitioner has been marked as Ex.P7 and it shows that the first petitioner is drawing an honorarium of Rs.16,900/-. P.W.2 adduced evidence and in her evidence, the divorce decree dated 11.02.2005 in O.P.No.28 of 2005 has been marked as Ex.P11. It is recorded in the said divorce decree at paragraph 7 that the ex-husband of the second

petitioner shall not claim custody of the child and that the second petitioner shall not claim maintenance for herself or the child, including in future. Ex.P12 is the declaration of willingness by the second petitioner. It is also stated in the petition that the second petitioner's ex-husband did not visit the child at all after the divorce.

8. From the above, I find that the petitioners satisfy the requirement under Section 61(1) of the Juvenile Justice Act, 2015 and CARA has also provided its consent by giving requisite consent form.

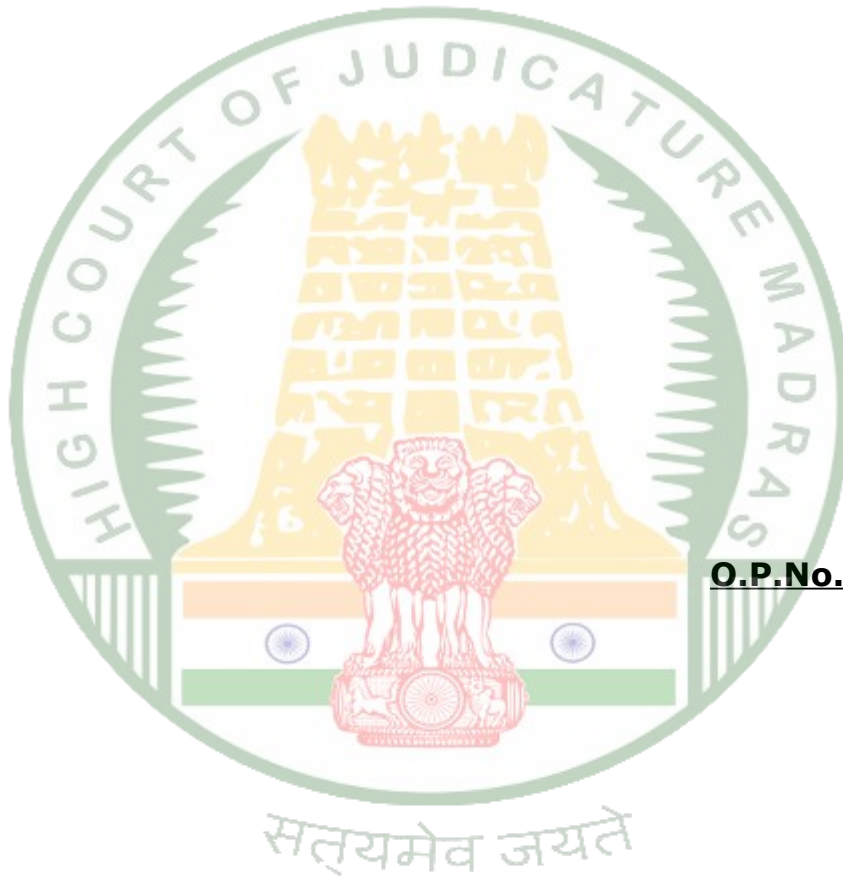
9. In view of the fact that the petitioners 1 and 2 married on 28.01.2007 and the minor child is living with them, it is clear that it would be in the paramount interest and welfare of the minor child that the first petitioner is duly appointed as the father of the child. For all these reasons, I am of the view that the petitioners are entitled to the relief prayed for in this petition. Accordingly, the petition is allowed and the first petitioner is appointed as the father of the minor male child, S.Adithya @ S.Baranitharan. Consequently, the Registrar of Births and Deaths is directed to re-issue the birth certificate of the child S.Adithya @ Baranitharan by incorporating the particulars of the father as per this order.

23.01.2020

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