



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11651 of 2020

WEB COPY

J.Maria Stephen

... Petitioner

Vs.

1. The Commissioner,
Tuticorin Municipal Corporation,
Tuticorin District.

2. The Birth and death Registrar,
Tuticorin Municipal Corporation,
Tuticorin.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to issue a fresh birth certificate after amending the name of the father and mother of the petitioner's adopted child, namely Jesinth who was born on 28.02.2019 by entering the petitioner's name and his wife's name J.Mariya Stephan -Arockia Subekha in the column of father and mother of the child and change the initial of the child as J.M. Instead of T and also to change the address of the child in birth certificate issued by the second respondent dated 12.04.2019 in Registration No.B 2019:33-13217-000033.

For Petitioner : Mr.B.Micheal Sebastin
For Respondents : Mr.Saji Bino

O R D E R

Heard the learned counsel on either side.

2.The petitioner got married to one Arockia Subekha. The couple decided to adopt a child. One Thennarasan and Anthoni Anitha gave their son Jesinth born on 28.09.2019 in adoption to the petitioner and his wife. Certain religious rites were performed and an adoption deed was also executed and registered as Document No.65 of 2019 on the file of the Joint Sub Registrar Office, Nagercoil. In the birth certificate of the adopted child Jesinth who was born on 28.09.2019, the names of the biological parents are mentioned. The petitioner therefore wants changes to be carried out in the birth certificate, so that, the petitioner and his wife's name can be reflected in the column meant for filing up the names of the parents. The petitioner had already submitted a request to the



second respondent in this regard. Since it was not acted upon, this writ petition came to be filed.

3.It is not in dispute that the parties are Christians. It appears that the statutory procedure set out in Juvenile Justice Act was not followed. The petitioner's counsel relies on the decision reported in **2009 (8) MLJ 309**, in which, it was noted that the practice of adoption has been permitted by Canon Law and that, therefore, the adoption made in this case cannot be questioned. Therefore, it is for the petitioner to actually substantiate the said fact before the authority concerned.

4.Therefore, this Court permits the petitioner to appear before the second respondent along with his wife and also the biological parents of the child. The child shall also be produced. On the said date, the relevant documents such as Aadhar Card, Ration Card, Original Adoption Deed and the Original Birth Certificate of the child shall be produced. The second respondent will hold an enquiry in this regard and on being satisfied about the veracity of the petitioner's claim, the second respondent shall enter the necessary details in the original birth certificate of the adopted child. The second respondent is directed to issue enquiry notice to the petitioner as early as possible. If the second respondent is satisfied that genuine adoption has taken place, the changes sought for in this writ petition will be effected and incorporated in the petition mentioned birth certificate. The entire exercise shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order.

5.This Writ Petition is allowed on these terms. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Commissioner,
Tuticorin Municipal Corporation,
Tuticorin District.

2. The Birth and death Registrar,
Tuticorin Municipal Corporation,
Tuticorin.

+1 CC to Mr.S.SAJI BINO, Advocate SR-18162.

W.P. (MD) No.11651 of 2020

SJ(CO)

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