

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1214 of 2021

M.Suriyaprakash

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Petitioner

Vs.

1. The Commissioner,
Virudhachalam Municipality,
Cuddalore District.

2. The Revenue Tahsildar,
Tahsildar Office,
Thittakudi.

3. The Deputy Tahsildar,
Office of the Tahsildar,
Thittakudi.

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Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records on the file of the respondents relating to the order dated 14.11.2019 of the 3rd respondent bearing ref. No.Na.Ka.A3/2939/2019 and quash the same and consequently direct the respondents to include the names of the petitioner's adoptive father Mr.P.Mohanraj and the adoptive mother Mrs.M.Saroja in the birth register bearing registration No.858/2002/01 registered on 21.05.2002 and to issue a fresh birth certificate to the petitioner incorporating the names of the adoptive parents of the petitioner.

For petitioner : Mr.T.Saikrishnan

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader.

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the time of admission itself.

2. This writ petition has been filed challenging the order dated 14.11.2019 passed by the 3rd respondent rejecting the petitioner's application to include the names of the petitioner's adoptive father P.Mohanraj and adoptive mother M.Saroja in the birth register bearing registration No.858/2002/01, registered on 21.05.2002 and to issue a fresh birth certificate incorporating the same.

3. According to the petitioner, he has been adopted by P. Mohanraj and M.Saroja under a valid adoption deed dated 28.07.2017. According to him, he was born on 06.05.2002 and thereafter given on adoption to P.Mohanraj and M.Saroja. It is the case of the petitioner that his father submitted an application with the 2nd respondent seeking to incorporate his name and his wife name as adoptive parents viz., P.Mohanraj and M.Saroja in the birth certificate of the petitioner dated 01.11.2012 and issue a fresh birth certificate thereafter incorporating the said names. By the impugned order passed by the 3rd respondent, the application submitted by the petitioner's father dated 01.10.2019 seeking to include the names of the petitioner's adoptive parents in his birth certificate has been rejected by the 3rd respondent on the ground that the petitioner will have to approach the High Court for the said relief. Aggrieved by the same, this writ petition has been filed. According to the petitioner, the impugned order has been passed arbitrarily and by total non application of mind to the documents produced by the petitioner before the 3rd respondent.

4. Heard Mr.T.Sai Krishnan, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents.

5. The petitioner has filed the following documents before this Court along with this writ petition :

- a) Birth certificate dated 01.11.2012 disclosing that the petitioner was born on 06.05.2002;
- b) Adoption deed, dated 28.07.2017 to show that the petitioner has been taken on adoption by P.Mohanraj and Saroja;
- c) enquiry report of the revenue officer dated 21.10.2019 recommending the case of the petitioner to the respondents to include the name of the adoptive parents viz., P.Mohanraj & M.Saroja in the Birth certificate of the petitioner;
- d) Transfer certificate of the petitioner dated 30.07.2020 and family card of the petitioner.

6. Admittedly, as seen from the impugned order none of the aforementioned documents were considered by the 3rd respondent. By total non application of mind to the aforementioned documents, the 3rd respondent has passed the impugned order rejecting the petitioner's application seeking to include the names of his adoptive parents in his birth certificate.

7. The learned counsel for the petitioner also drew the attention of this Court to the Circular dated 12.03.2012 issued by the Ministry of Home Affairs, Government of India and in particular, he referred to Clause 2 of the said Circular and would submit that the said Clause enables the respondents to incorporate the names of the adoptive parents in the birth certificate of the petitioner. Admittedly, the said Circular has also not been considered by the 3rd respondent under the impugned order.

8. For the foregoing reasons, this Court is of the considered view that the impugned order passed by the 3rd respondent has to be necessarily quashed and the matter remanded back to the 3rd respondent for fresh consideration on merits and in accordance with law after giving due consideration to the aforementioned documents as well as the Circular dated 12.03.2012 issued by the Ministry of Home affairs, Government of India, New Delhi - 110 066.

9. In the result, the impugned order dated 14.11.2019 is hereby quashed and the matter remanded back to the 3rd respondent for fresh consideration and the 3rd respondent shall consider the petitioner's application seeking for incorporation of the names of the petitioner's adoptive parents viz., P.Mohanraj and M.Saroja in the petitioner's birth certificate and issue a fresh birth certificate after incorporating the said names and pass final orders on merits and in accordance with law after giving due consideration to the aforementioned documents as well as the Circular dated 12.03.2012 issued by the Ministry of Home affairs, Government of India, New Delhi - 110 066, within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Virudhachalam Municipality,
Cuddalore District.

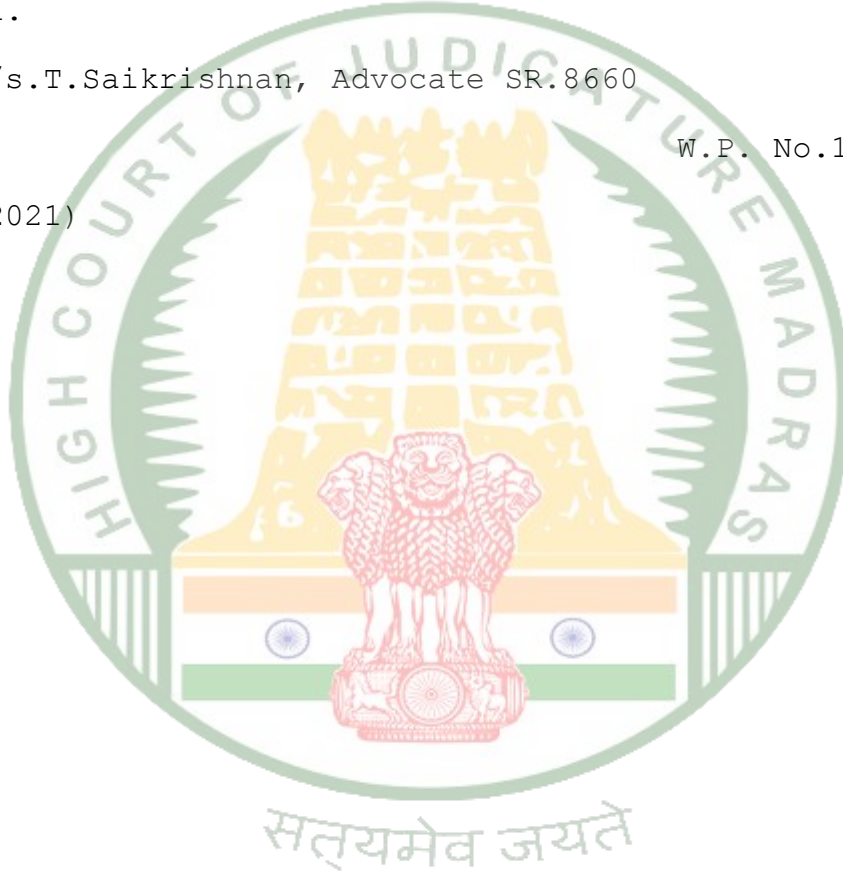
2. The Revenue Tahsildar,
Tashildar Office,
Thittakudi.

3. The Deputy Tahsildar,
Office of the Tahsildar,
Thittakudi.

+1cc to M/s.T.Saikrishnan, Advocate SR.8660

W.P. No.1214 of 2021

AAB (CO)
CB (09/03/2021)



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