

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI
W.P.No. 3438 of 2020

S.P.Ramachandran

...Petitioner

Vs.

The Commissioner,
Greater Corporation of Chennai,
Registration of Births and Deaths,
Ripon Buildings,
Chennai - 600 003.

..Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the records of the respondent in reference dated 17.12.2019 vide P.H.D.C.C.14/7064/2019 communicated through the City Health Officer, Public Health Department of the respondent Corporation and quash the same and consequently direct the respondent to correct the name of the petitioner's last son as S.R.Prabhakaran instead of Kirubakaran in the death certificate with the registration number COC / 1988 / 05/033/000090/0.

For Petitioner : Mr.R.Udayakumar

For Respondents : Mrs. Karthika Ashok

Standing Counsel

O R D E R

This writ petition is filed for directing the respondent to correct the name of the petitioner's last son as S.R.Prabhakaran instead of S.R.Kirubakaran, which has been inadvertently registered in the death certificate with the registration number COC / 1988 / 05/033/000090/0.

2. The case of the petitioner is that his son, S.R.Prabhakaran died on 10.05.1988 and the same has been registered by the respondent Corporation. While registering the same, it has been inadvertently mentioned as S.R.Kirubakaran instead of S.R.Prabhakaran and therefore, the petitioner has made several representations to correct the name but the same has not been considered and therefore, the petitioner has filed

the earlier writ petition in W.P.No. 35565 of 2019 and this Court has directed the respondent to consider the representation of the petitioner. Pursuant to the same, the respondents have passed an order on 17.12.2019, rejecting the request of the petitioner by stating that the death was taken place in the year 1988, where the deceased name is mentioned as S.R.Kirubakaran in the death certificate and the same cannot be changed as per the Birth and Death Act, 1969. Aggrieved over the same, the petitioner has filed this writ petition.

3. Mrs.Karthika Ashok, learned standing counsel for the respondent made her submissions that as per Section 15 of the Birth and Death Act, 1969, the original entry cannot be altered and without any proof beyond the doubt, such alteration in the entry cannot be carried out. She would further submit that the petitioner has not produced a document of proof to substantiate his case that the person S.R.Kirubakaran called as S.R.Prabhakaran.

4. Mr.R.Udayakumar, learned counsel for the petitioner submits that he has enclosed his son's mark statement dated 07.07.1986 and the sale deed executed in favour of the petitioner's son and the transfer certificate. A perusal of the documents it appears that the Board of Secondary Education has issued a SSLC certificate having Registration No.373459 wherein, the petitioner's son S.R.Prabhakaran has his date of birth as 04.06.1970. Apart from that, the petitioner has also relied on a sale deed dated 19.02.1988, where the property has been purchased by the petitioner along with his sons wherein, the deceased name is mentioned as S.R.Prabhakaran son of S.P.Ramachandran.

5. This Court paid its anxious considerations to the rival submissions made.

6. The grievance of the petitioner is that the name of his son in the death register has been wrongly mentioned as S.R.Kirubakaran instead of S.R.Prabhakaran. The petitioner has relied on a document issued by the Board of Secondary Education to support his case that the name of his son is S.R.Prabhakaran. However, it has been recorded in the register of the respondents that S.R.Kirubakaran instead of S.R.Prabhakaran.

7. According to the learned counsel for the respondent, it is only on the information furnished by the relatives of the deceased at the relevant point of time, his name has been registered as S.R.Kirubakaran. In the absence of any material, the respondent is not supposed to correct the entry made in the Birth and Death certificate that too after 34 years. Section 15

of the Registration Act is extracted here under :

"If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the Original entry and shall sign the marginal entry and add there to the date of the correction of cancellation."

8. A Plain reading of the said provision would reveal that the respondent is entitled to alter the entries in the birth and death register when it is established beyond a reasonable doubt. The petitioner by relying the certificate issued by the Board of Secondary Education in the year 1986 and a registered sale deed made a claim and therefore, this writ petition is allowed and the respondents are directed to consider the case of the petitioner and correct the name of the petitioner's son in the death register as S.R.Prabhakaran instead of S.R.Kirubakaran.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkn

To:-

The Commissioner,
Greater Corporation of Chennai,
Registration of Births and Deaths,
Ripon Buildings,
Chennai - 600 003.

+1cc to Mrs. Karthika Ashok, Advocate SR.No. 20491

+3ccs to Mr.R.Udhaya kumar , Advocate SR.No. 20475

W.P.No. 3438 of 2020

AJB(CO)

A.SK(22.06.2021)