



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM:

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.707 of 2015
and M.P.No. 1 of 2015

K.T.Periyasamy ...Petitioner/Third Party
Vs.

1.S.Eswaramoorthy
2.The Tahsildar, Erode Taluk,
Erode District. ...Respondent/Respondent

PRAYER: This Criminal Revision Case has been filed under Section 397 read with Section 401 of Cr.P.C, to set aside the order dated 20.04.2015 made in CMP.No.1245 of 2015, on the file of the Judicial Magistrate No.I, Erode.

For Petitioner : Mr.C.Ramaraaj
For R1 : No appearance
For R2 : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

JUDGMENT

(This case has been heard through video conference)

Heard the learned counsel for the petitioner through video conference. The first respondent has been served and there is no representation on behalf of him. The learned Government Advocate (Crl.Side) take notice on behalf of the second respondent viz., Tahsildhar, Erode.

2.It appears that the first respondent herein has filed an application before the learned Judicial Magistrate No.I, Erode, under Section 13(3) of the Registration of Births and Deaths Act, 1969 r/w. 10(3) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, seeking registration of death of his grandfather viz., Muthu Karuppana Gounder @ Karuppana Gounder. The learned Judicial Magistrate after following the procedure, has allowed the application and directed the second respondent herein viz., Tahsildar, Erode to register the date of death of Muthu Karuppana Gounder @ Karuppana Gounder as 21.02.1987. After getting necessary leave permission, the petitioner has filed this Criminal Revision, challenging the above said order on the ground that the present revision petitioner is the grand son of the Muthu Karuppana Gounder @ Karuppana Gounder.



3.The crux of the matter is that whether Karuppana Gounder is same as Muthu Karuppana Gounder. According to the revision petitioner, Muthu Karuppana Gounder is the grand father not the father of the petitioner before the Magistrate Court.

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4.The learned counsel for the petitioner would submit that by virtue of the order passed by this Court in the Judgment reported in 2017 3 CTC 23 - (P.Duraisamy Vs. State), only Executive Magistrate is empowered to look into the issue.

5.The learned Government Advocate (Crl.Side) would submit that Karuppana Gounder father's name is Muthu and hence, his name was typed as Muthu Karuppana Gounder since the identity of the person who said to have been died is under dispute. Whether he is the grant father of the revision petitioner or great grand father of the revision petitioner.

6.Hence, the order passed by the learned Judicial Magistrate is set aside and the revision petitioner is directed to be added as a party respondent in CMP.No.1245 of 2015 in the matter relating to the petition filed under Section 13(3) of the Registration of Births and Deaths Act, 1969. Factum of death and the date alone is matter for consideration and hence, when the identity of the person who said to have died is disputed and the same for Trial.

7.In this view of the matter this Criminal Revision Case stands allowed and the order passed in CMP.No.1245 of 2015 is set aside and the petitioner in CMP.No.1245 of 2015, is at liberty to move the matter to the learned Executive Magistrate if he so be advised. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.I, Erode

2.The Tahsildar

Erode Taluk, Erode District

+1 CC to Mr.M. Guru Prasad, Advocate sr 27909.

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LN(CO)

SP(19/08/2021)