



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. Nos.14742 &14743 of 2017
and Crl.M.P.Nos.9324, 9329, 9095 & 9096 of 2017

R.Nagappan

...Petitioner/Third Party in both Crl.O.Ps.

Vs.

1.Palaniyammal

...1stRespondent/Petitioner in both Crl.O.Ps

2.The Sub-Registrar,
Tiruchengode,
Namakkal District.

... 2ndRespondent/1st Respondent in both Crl.O.Ps

3.The Thasildar,
Tiruchengode,
Namakkal District.

... 3rd Respondent/2nd Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records relating to the order dated 18.01.2017 made in C.M.P.Nos.5144 & 5151 of 2016 on the file of the Judicial Magistrate, Tiruchengode and set aside the same.

In both Crl.O.Ps:

For Petitioner : Mr.D.Raghu
For R1 : Mr.K.Venkatasubban for
M/S.Sarvabhauman Associates

For RR 2 & 3 : Mr.S.Vinoth Kumar,
Government Advocate

C O M M O N O R D E R

Since the issue involved in both these petitions are one and the same, they are disposed of by this common order.

2. These Criminal Original Petitions have been filed to call for the records relating to the order dated 18.01.2017 made in C.M.P.Nos.5144 & 5151 of 2016 on the file of the learned Judicial Magistrate, Tiruchengode.

3. Heard the learned counsel appearing for both the parties and perused the materials available on record.



4. These applications have been filed to quash the order passed by the learned Judicial Magistrate, Tiruchengode, under Section 13(3) of the Registration of Births and Deaths Act, 1969 seeking to register the death of the first respondent's grandfather. The learned Judicial Magistrate, Tiruchengode by order dated 18.01.2017 directed the second and third respondents to register the death of one Mr.Rangappanayakkan, who is said to have died on 01.07.1962. The same was challenged before this Court, raising the factual aspects.

5. Further one of the main ground for challenge is that the direction is contrary to the judgment of this Court made in P.Duraisamy and others versus the State represented by the Secretary to Government, Department of Home (Prison) Fort St.George and others reported in (2017) 2 MLJ (Cr1) 721. The quash petition is proceeded as if the learned Judicial Magistrate has passed an order after 25.01.2017. Therefore, as per the said order of this Court, such order is nonest in law. Therefore, the submission of the learned counsel that the order has been passed after 25.01.2017 is not correct. In fact, the order has been passed on 18.01.2017. The Division Bench of this Court in the judgment stated supra has clearly held that only after 25.01.2017, the cut-off date has been clearly fixed by the Division Bench of this Court.

6. This Court had also an occasion to consider a similar issue in 2021 2 Law Weekly 449 in M.Venkatesh and others vs. Nanjappa, wherein at paragraph No.14, this Court has held that the directions prior to 25.01.2017 issued by the learned Judicial Magistrate is valid. In such view of the matter, the very contention that the order of the Judicial Magistrate is nonest in law and cannot be countenanced. It is further to be noted that the remedy of filing of civil suit is available as against the order passed by the learned Judicial Magistrate. It is open to the petitioner to raise all the factual aspects by way of filing a Civil Suit to redress the grievance of the petitioner.

7. Considering the nature of the petitions, the period spent in these petitions stand excluded for the purpose of limitation for filing of civil suit in this regard, if the same is filed within the period of six months from today. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar



To:

1.The Sub-Registrar,
Tiruchengode,
Namakkal District.

2.The Thasildar,
Tiruchengode,
Namakkal District.

3.The Chief Judicial Magistrate,
Thiruchengode,
Namakkal District.

4.The Public Prosecutor,
High Court of Madras.

5.The Judicial Magistrate,
Tiruchengode,
Namakkal District.

+4ccs to M/S.Sarvabhauman Associates, SR. Nos.63288 & 63289

+2ccs to Mr.D.Raghu, Advocate SR. Nos.63361 & 63362

Cr1.O.P. Nos.14742 &14743 of 2017

GSM (CO)

PR (27/12/2021)