



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.19279 of 2021

M.Nirmala

... Petitioner

Vs.

The Registrar,
Birth and Death Registering Officer,
Thirumayam,
Pudukottai District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to remove the petitioner's first husband name and to add the petitioner's second husband's name Mr.Muthupandi in the birth certificates issued to her children and provide new birth certificate.

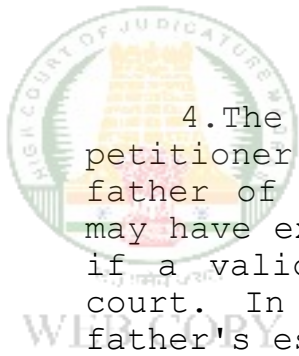
For Petitioner	: Mr.G.M.Xavier
For Respondent	: Mr.K.S.Selva Ganesan Counsel for State

ORDER

The petitioner seeks a direction to the respondent to remove her first husband's name and add the second husband's name in the birth certificate issued to her children.

2.The petitioner states that she married one Mr.Neelakandan in the year 2004. Mr.Neelakandan and the petitioner had a female child, named, Deepasri and a male child, named, Rithishkumar. It is stated that the petitioner and Mr.Neelakandan had divorced by mutual consent on 03.07.2013. The petitioner also states that the two children from the said marriage live with her. On 22.02.2014, it is stated that the petitioner married one Mr.Muthupandi. The petitioner and Mr.Muthupandi have a male child called Vishal. The petitioner states that the birth certificates issued in respect of Deepasri and Rithishkumar carry the name of Mr.Neelakandan. The present writ petition is filed to direct the respondent to remove the first husband's name and substitute it with the name of the second husband.

3.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of the sole respondent. He points out that the petitioner relies upon a deed of divorce by mutual consent and not a divorce decree issued by a competent court. Therefore, he states that the relief prayed for cannot be granted.



4.The present writ petition is misconceived in as much as the petitioner's ex-husband Mr.Neelakandan does not cease to be the father of Deepasri and Rithishkumar merely because the two parties may have executed a deed of divorce. Such would be the position even if a valid divorce decree had been issued by a competent family court. In addition, the children have a right to inherit their father's estate and cannot be disinherited in this manner.

5.For reasons set out above, W.P.(MD).No.19279 of 2019 is dismissed without any order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sn/sji

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

The Registrar,
Birth and Death Registering Officer,
Thirumayam,
Pudukottai District.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-33569[F] dated 02/11/2021)

+1 CC to M/s.SPL.GP (SR-33670[F] dated 08/11/2021)

W.P(MD).No.19279 of 2021
01.11.2021

TSK(CO)

GC/PM(18.11.2021) 2P 4C