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W.P.No.16244 of 2022

W.P.No.16244 of 2022

C.SARAVANAN, J.

A final order came to be passed in the above Writ Petition on 10.10.2022. Few typographical errors were noticed after the order was signed and hosted in the website. Hence, this case is listed today under the caption “for being spoken to”.

2. After hearing both side parties, the following corrections are made:-

(i) Paragraph Nos.31 to 35 shall be substituted as follows:-

31. As per the proceedings dated 25.06.1992 of the Director of Public Health and Preventive Medicine and Chief Registrar of Births and Deaths, Tamil Nadu, Madras, bearing reference No.91143/PH/V.S.I./A/92, it is the Sanitary Inspector who is the Registrar of Births and Deaths for Chennai Corporation.

32. Since the Sanitary Inspector of Alandur Municipality is not a party to the proceedings, the



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Sanitary Inspector, Alandur Municipality is *suo moto* impleaded as the fifth respondent.

33. As the power to cancel the entry in the Register of Births and Deaths is only vested with the Registrar under the provisions of the Registration of Births and Deaths Act, 1969 read with Tamil Nadu Registration of Births and Deaths Rules, 2000 and as the impugned order has not been passed either by the Registrar or by the Sanitary Inspector as per the above proceedings dated 25.06.1992, the impugned order dated 05.07.2017 of the third respondent Zonal Health Officer cancelling the Entry No.75 in Register of Births and Deaths of Alandur Municipality dated 31.12.1971 is without jurisdiction. Therefore, the impugned order is liable to be quashed.

34. The fact also remains that the extract of the Register which has been produced before this Court indicates that the entry dated 31.12.1971 was inserted after the Commissioner of Alandur Municipality affixed signature and seal on 31.12.1971.

35. Therefore, while quashing the impugned order, the case is remitted back to the fifth respondent



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Sanitary Inspector, Alandur Municipality to pass appropriate orders afresh for cancelling the entry and to regularize the same after proper examination of records after due notice to the petitioners who claim that late V.Balaram Naidu was residing at Jail Naicker Street and that latter had allegedly executed a 'Will' in their favour and to the fourth respondent. This exercise shall be carried out by the fifth respondent Sanitary Inspector within a period of three months from the date of receipt of a copy of this order.

(ii) The designation of the fifth respondent “The Registrar of Births and Deaths” who was impleaded *suo moto* and arrayed in the 'cause title', shall be substituted with the words “The Sanitary Inspector”.

3. Registry is directed to carryout the above corrections and thereafter, issue copy to the parties.

18.10.2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	18.08.2022
Pronounced On	10.10.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.16244 of 2022

and

W.M.P.No.15590, 15591 & 15592 of 2022

1.K.Dhanasekaran

2.K.Mohan

3.K.Chandrasekar

4.K.Hemakumar

... Petitioners

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

2.City Health Officer (CHO),
Greater Chennai Corporation,
Rippon Buildings,
Chennai – 600 003.

3.Zonal Health Officer,
Zone – 12,
Greater Chennai Corporation,



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No.01, New Street, Alandur,
Chennai – 600 016.

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4.G.V.Gopalakrishnan Naidu

5.The Registrar of Births and Deaths,
Alandur Municipality,
Alandur, Chennai,
Tamil Nadu 600 016.

... Respondents

(R5 is *suo moto* impleaded by this order)

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the proceedings dated 05.07.2017 passed in Z.O.12/HDC/1481/2017 on the filed of the third respondent and to quash the same.

For Petitioners : Mr.S.Subbiah
Senior Counsel
for M/s.Elizabeth Ravi

For R1 to R3 : Mr.Rahul Aditya
for Mrs.P.T.Ramadevi
Standing Counsel

For R4 : Mr.P.V.Sathyanarayanan

ORDER

Heard the learned Senior Counsel for the petitioners and the learned counsel for the first to third respondents and learned counsel for the fourth



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respondent. I have perused the affidavit and documents filed by the petitioner and the copy of the Register of deaths in the Municipality of Alandur during the month of December, 1971.

2. The present writ petition has been filed to quash the Impugned Order/communication dated 05.07.2017 bearing reference No.Z.O.12/HDC.No:H2/1481/2017 passed by the third respondent.

3. By the impugned communication/order, the third respondent has cancelled the entries made in the Register of Births and Deaths regarding the death of one Thiru.V.Balaram Naidu aged 70 years as bogus who is said to have lived in No.19, Jal Naicken Street, Alandur, Chennai – 16.

4. Relevant portion from the impugned order reads as under:

As per the above subject and reference cited, the death registration of Th.V.Balaram Naidu 70/m S/o Vajravel Naidu, date of death **05.09.1971** at 19, Jal naickenst, Alandur, Chennai – 16, Registration No:ALN/75/1971/001/0 has been cancelled as the death event was noticed as bhogus, by the Vigilence Department, Greater Chennai Corporation.



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5. The impugned communication is in response to a representation of the fourth respondent dated 17.04.2017 and the orders dated 16.06.2017 of the City Health Officer (CHO), the second respondent.

6. The facts on record indicate that there is a long history to the case. R.C.O.P.No.181 of 1993 was filed by one G.M.Veeraraghavan Naidu, S/o.G.Manavala Naidu under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1963 against the Mrs.D.Savithiri, three minor children and one K.Muniyammal the mother-in-law of Mrs.D.Savithri, before the District Munsif Court, Poonamallee.

7. The fourth respondent is one of the sons of G.M.Veeraraghavan Naidu. The said R.C.O.P. was later transferred to the District Munsif Court, Alandur and renumbered as R.C.O.P.No.30 of 1997.

8. The said R.C.O.P. appears to have been allowed on 25.03.2002. Aggrieved by the same, the respondents therein, i.e. Mrs.D.Savithri and others filed R.C.A.No.43 of 2002 before the Subordinate Court, Chengalpet which was dismissed on 26.04.1007. Further C.R.P.No.3510



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of 2007 filed by the Mrs.D.Savithri and others before this Court was also dismissed on 16.09.2011.

9. Further appeal by way of S.L.P.(Civil) No.32980 of 2011 before the Hon'ble Supreme Court was also dismissed on 10.01.2012 by directing the Mrs.D.Savithri and others to vacate the premises by 30.06.2012 subject to the condition that necessary affidavit and undertaking shall be filed by them within four weeks.

10. Pursuant to the above, the second petitioner therein who is also the second petitioner herein filed an affidavit of undertaking on 30.01.2012 stating that he is in possession of 700 sq.ft. of building and he would vacate the premises without any let or hindrance on 30.06.2012, as directed by the Hon'ble Supreme Court and he also undertook to pay the rents as damages for use and occupation till 30.06.2012 regularly.

11. In the light of dismissal of R.C.A.No.43 of 2002, the fourth respondent herein namely, G.V.Gopalakrishnan Naidu along with his siblings, S/o.G.M.Veeraraghavan Naidu, filed E.P.No.36 of 2002 against



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Mrs.D.Savithri and others. The said E.P was terminated on 30.07.2012 as the property was purportedly delivered on 10.07.2012 to them.

12. In the said proceedings, the petitioners herein filed E.A.(SR) No.9486 for obstructing the delivery. The said appeal was dismissed on 10.07.2012 at the S.R. stage itself. The petitioners herein thereafter filed R.C.A.No.40 of 2012. It was allowed on 17.07.2012. Therefore, the fourth respondent filed C.R.P.No.3127 of 2013 before this Court which was dismissed on 11.08.2016 with the following observations:-

14. The order of the Rent Controller is liable to be set aside only on the ground that the application was not numbered and opportunity was not given to the parties to put forth their case. In these circumstances, the order passed by the Rent Control Appellate Authority remanding the matter for numbering the application and giving opportunity to both the parties is just and proper. I do not find any reason to interfere with the order passed by the Rent Control Appellate Authority. The Civil Revision Petition is liable to be dismissed and the same is dismissed. Since the matter is pending for more than twenty five years, I direct the Rent Controller/District Munsif, Alandur to number the application in EASR No.9486/2012 in E.P.No.36/2002 in R.C.O.P.No.30/1997 and pass orders after giving opportunities to both sides within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected MPs are closed.



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13. In the above order, the Rent Controller/District Munsif, Alandur was directed to number the application in E.A.SR.No.9486 of 2012 and pass orders. In the said proceedings, the petitioners herein introduced the Death Certificate of the said late V.Balram Naidu, S/o.VajravelNaidu which Certificate was cancelled by the third respondent Zonal Health Officer.

14. A reading of the Register of deaths in the Municipality of Alandur during the month of December, 1971 indicates that in the Register of Births and Deaths of Alandur Municipality during the month of December, 1971, there are 75 entries. The last entry is that of the death of V.Balram Naidu, S/o.Vajravel Naidu dated 31.12.1971. *Prima facie* it appears that the said entry has been made after the Commissioner of Alandur Municipality had signed in the Register. The last entry at Sl.No.75 runs parallel to the signature of the Commissioner of Alandur Municipality.

15. The Registrar has signed in Column No.21, wherein, the then Commissioner of Alandur Municipality has affixed seal and put his



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signature. The entry at Sl.No.75 has been deleted as per the Order

No.3615 dated 16.06.2017 of the City Health Officer with the following

endorsements:-

As per the order of the City Health Officer vide No:3615 dt.16.6.17, the death event of V.Balaramnaidu which was duplicate (focus) was removed from the system and also cancelled from the register on the basis of complaint of Th.G.V.Gopala Krishna Naidu.

16. The removal of above entry was based on the complaint of the fourth respondent. The facts on record indicate that the petitioners as the third party obstructors in E.P.No.36 of 2002 have stated that the said late V.Balram Naidu had executed a 'Will'. The entry was found to be bogus by the Vigilance Department of the respondent Greater Chennai Corporation, copy of which has been filed before the Court of the Subordinate Judge at Alandur on 11.07.2017 in E.A.No.152 of 2017 filed by the petitioners herein.

17. With the cancellation of the above entry, the Death Certificate issued in the name of V.Balram Naidu has been rendered otiose. It appears



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that the deceased V.Balram Naidu has been stated to be son of Vajravel Naidu and Padmavathy. On the alleged date of death of V.Balram Naidu on 05.09.1971, the said V.Balram Naidu was aged about 70 years who is said to have executed a 'Will'.

18. The law relating to the cancellation of birth and death is covered by the provisions of the Registration of Births and Deaths Act, 1969 along with Tamil Nadu Registration of Births and Deaths Rules, 2000 in Tamil Nadu. As per Section 8 of the Act, duty is cast head of house to give information regarding the birth and death of a person to the Registrar within the jurisdiction.

19. As far as the correction and cancellation of a entry in the Register of Birth and Death is concerned, Section 15 of the Registration of Births and Deaths Act, 1969 governs the same which reads as under:-

15. Correction or cancellation of entry in the register of births and deaths.—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



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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 thereto the date of the correction or cancellation.

20. Under Section 15 of the Registration of Births and Deaths Act, 1969, it is the Registrar who is empowered to correct the error or cancel the entry by a suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.

21. For implementing the above provisions in Tamil Nadu, Tamil Nadu Registration of Births and Deaths Rules, 2000 have been framed. As per Rule 11(1) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, it is responsibility of the Registrar to correct the error (by correcting or canceling the entry) as provided in Section 15 of the Act and in the case of local authorities specified in Column (1) of the Table to Rule 11 of the Tamil Nadu Registration of Births and Deaths Rules, 2000, to send an



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extract of the entry showing the error, if it is reported to the Registrar that a clerical or formal error has been made in the Register or if such error is otherwise noticed by him and if the register is in his possession.

22. Rule 11(1) of the Tamil Nadu Registration of Births and Deaths

Rules, 2000 reads as under:-

11. Correction or cancellation of entry in the register of births and deaths under section 15

(1) If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in section 15 and shall in the case of local authorities specified in column (1) of the Table below send an extract of the entry showing the error and how it has been corrected to the officer specified in column (2) thereof.

23. The Table to Rule 11(1) of the Tamil Nadu Registration of

Births and Deaths Rules, 2000 reads as under:-



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Local Authorities (1)	Officers (2)
Village Panchayat	Village Panchayat President
Town Panchayat	Executive Officer
Contonment	Executive Officer
Municipality	Commissioner
Corporation	Commissioner
Neyveli Lignite Corporation	Chief Health Officer

24. Rule 11(2) of the Tamil Nadu Registration of Births and Deaths

Rules, 2000 reads as under:-

(2) In the case referred to in the sub-rule (1) if the register is not in his possession, the Registrar shall make a report to the officer specified in the table in sub-rule (1) and call for the relevant register and after enquiring into the matter, if he is satisfied that such error has been made, necessary correction.

25. As per Rule 11(4) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, if any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 of the Act upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge



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of the facts of the case.

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26. As per Rule 11(6) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, if it is proved to the satisfaction of the Registrar that any entry in the Register of Births and Deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf under Section 25 of the Act and on hearing from him take necessary action in the matter.

27. Section 25 of the Registration of Births and Deaths Act, 1969 deals with sanction for prosecution for any offence punishable under the Act. In other words, what is contemplated in Rule 11(6) of the Tamil Nadu Registration of Births and Deaths Rules, 2000 applies to a situation where a concerned officer made fraudulently and improperly entry in the Register of Births and Deaths who is to be prosecuted.

28. A reading of the above provisions from the Acts and Rules makes it clear that corrections can be made to the entries in the Registrar



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of Births and Deaths either by the Registrar himself or by such Officers in the case of local authorities specified in Column (1) of the Table to Rule 11(1) of the Tamil Nadu Registration of Births and Deaths Rules, 2000 based on the extract of entry if it is proved that any entry in the Register of Births and Deaths has been fraudulently or improperly made.

29. In this case, corrections in the Register of Births and Deaths of Municipality of Alandur for the month of December, 1971 has been made as per the order of the City Health Officer dated 16.06.2017 vide Order No.3615 as stated above.

30. As per Rule 11(6) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, before corrections are made, the Registrar shall make a report of giving necessary details to the officers authorized by the Chief Registrar, by general or special order, in this regard, under Section 25 of the Act and that on hearing from him, necessary action may be taken in the matter.

31. As the power to cancel the entry in the Register of Births and Deaths is only vested with the Registrar under the provisions of the



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Registration of Births and Deaths Act, 1969 read with Tamil Nadu

Registration of Births and Deaths Rules, 2000, the impugned order dated 05.07.2017 of the third respondent Zonal Health Officer cancelling the Entry No.75 in Register of Births and Deaths of Alandur Municipality dated 31.12.1971 is without jurisdiction.

32. Unless the City Health Officer is the Registrar of Birth and Death, the impugned order cancelling the entry dated 31.12.1971, even if made based on the facts on record that there were insertion, is without jurisdiction and is liable to be interfered with. Therefore, the impugned order is liable to be quashed.

33. However, the fact remains that the Register which has been produced before this Court indicates that the entry dated 31.12.1971 was inserted after the Commissioner of Alandur Municipality affixed signature and seal on 31.12.1971.

34. Therefore, while quashing the impugned order, the case is remitted back to the Registrar of Births and Deaths, Alandur Municipality



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to pass appropriate orders for cancelling the entry afresh to regularize the same after giving due notice of being heard to the petitioners who claim that the said late V.Balaram Naidu was residing at Jail Naicker Street and that latter had allegedly executed a 'Will' in their favour.

35. This exercise shall be carried out by the Registrar of Births and Deaths within a period of three months from the date of receipt of a copy of this order. Since the Registrar of Births and Deaths is not a party to the proceedings, the Registrar of Births and Deaths, Alandur Municipality is *suo moto* impleaded as the fifth respondent.

36. This Writ Petition stands allowed with the above observations.
No cost. Consequently, connected Miscellaneous Petitions are closed.

10.10.2022

Internet : Yes/No
Index : Yes / No
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To
1.The Commissioner,
Greater Chennai Corporation,



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Ripon Building, Chennai – 600 003.

2.City Health Officer (CHO),
Greater Chennai Corporation,
Rippon Buildings, Chennai – 600 003.

3.Zonal Health Officer,
Zone – 12, Greater Chennai Corporation,
No.01, New Street, Alandur,
Chennai – 600 016.

4.The Registrar of Births and Deaths,
Alandur Municipality,
Alandur, Chennai, Tamil Nadu 600 016.

C.SARAVANAN, J.

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Pre-Delivery Order
in
W.P.No.16244 of 2022 and
W.M.P.No.15590, 15591
& 15592 of 2022

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