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W.P.No.35354 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.35354 of 2023

Senthamarai

.. Petitioner

vs

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

2.The Registrar of Births & Deaths,
Division : 52A, Zone : 05,
Greater Chennai Corporation,
Chennai – 600003.

3.The Stanley Medical Hospital,
No.1, Old Jail Road,
Chennai – 600 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the 2nd respondent to consider petitioner's representation dated 02.11.2023 and to rectify the errors in the Death Certificate of petitioner's late husband Mr.Udhayakumar with respect to the name of the petitioner and the name of the father in law of the petitioner, wherein, it has been wrongly mentioned as "Bhuvaneshwari" instead of the name of the petitioner i.e., "Senthamarai Udhayakumar" and the name of the father of the deceased has been wrongly mentioned as "Karupusamy" instead of "Karuppanan".

For Petitioner : Mr.V.Vigneshwar
for Mr.Ashwinkumar

For Respondents : Mr.Rahul Aditya
for Ms.P.T.Ramadevi
Standing Counsel for R1

Mr.K.Tippu Sultan,
Government Advocate
for R2 & R3



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ORDER

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The petitioner is one Senthamarai, who claims to be the wife of Late Udhayakumar. In paragraph 2 of writ affidavit she has set out various details in regard to alleged solemnization of the marriage between herself and Udhayakumar on 12.12.1986 as well as claiming that the couple have a son named U.Arun Kumar, who is presently 35 years old. Udhayakumar had been admitted in R3 hospital on 09.08.2022 and passed away on 12.08.2022.

2. The petitioner is aggrieved by the death report issued by R3 at the instance of one Bhuvaneshwari, who also claims to be the wife of Udhayakumar. Incidentally, the petitioner has not arrayed Bhuvaneshwari as a respondent in this writ petition and hence her stand on the averments in the writ affidavit is unknown.

3. The petitioner being aggrieved by the issuance of the death certificate of Udhayakumar naming Bhuvaneshwari as his wife and also mentioning the name of Udhayakumar's father as Karupusamy instead of Karuppanan, has filed the present writ petition seeking a mandamus to consider her representation dated 02.11.2023 seeking rectification of the errors in the death certificate of Udhayakumar.

4. The first error is mentioning of Bhuvaneshwari as wife instead herself and the second is mentioning of his father's name as Karupusamy instead of Karuppanan. As far as the latter is concerned, it is for the father of Udhayakumar to seek rectification. The stand of the respondents is that the petitioner may have been the second wife of Udhayakumar, as since



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the documentation produced by learned Government Advocate from R3 hospital reveals that the application for issuance of death certificate has been made by Bhuvaneshwari claiming to be wife of Udhayakumar. the original hospital records containing the particulars of issuance of death certificate from R3 hospital, reveals the name Bhuvaneshwari as wife of Udhayakumar. After perusal of original records, the same have been returned to learned Government Advocate.

5. Be that as it may, an order has been passed on 31.10.2023 by R2 / Registrar of Births and Deaths disposing representation dated 25.09.2023 adverse to the petitioner. Clearly, there is a serious dispute between two individuals, both claiming to be the wife of Udhayakumar. In such circumstances, it is for the individuals to approach the competent civil court for redressal, as matters of such nature involving disputed facts can neither be gone into by this Court or by the authorities.

6. Proceedings in R.No.3612995/SBHI-I/S1/2022 dated 18.02.2023 issued by the Department of Public Health and Preventive Medicine relating to inclusion of two or more wives in the death certificate of the deceased, reads thus:-

"Sir/Madam

*Sub : Public Health – Civil Registration System –
Clarification regarding Inclusion of two or more
wives name in the Death Certificate of the deceased
– Executive Instruction – issued – Reg.*

*Ref : Ltr.No.1/2(TN)/2015-VS(CRS) dt: 20.01.2023
of Joint Director (CRS), Ministry of Home Affairs,
New Delhi*



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I invite your kind attention and inform you that clarification regarding Inclusion of two or more wives name in the Death Certificate of the deceased has been sought on registering the death.

In this connection, the Registrar General of India, Ministry of Home Affairs, New Delhi was addressed by this office to clarify on the above issue and in the reference cited the Office of the Registrar General India has clarified the following:

INCLUSION OF NAME OF TWO OR MORE WIVES IN THE DEATH CERTIFICATE OF DECEASED

*1. In respect of issuing death certificate in case of multiple wives, the name of legally married wife could be mentioned in the death certificate. However, for cases where more than two wives are alive and both/all of them claiming to be legally wedded wife of the deceased, for such cases, legality cannot be decided by the Registrar, it could be decided by the court. Therefore, **the Registrar may be instructed to direct the applicant to obtain an order from the concerned court on the legality of the relationship with the deceased husband.***

2. The entries in birth and death registers are public document and are admissible as evidence under the Indian Evidence Act. However, these entries are only conclusive evidence of the fact of birth or death as the case may be. Other particulars as to which the registering officer concerned can have no personal knowledge or no means of checking cannot be treated conclusive evidence.

Hence, the above directions are issued under Sec 4(4) of the Registration of Birth and Death Act, 1969 and the above direction may be brought to all Registration functionaries for compliance.

A copy of the instructions issued in this regard may be sent to this office for information and record."

7. In light of the aforesaid, and particularly since the



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representation of the petitioner has already been disposed under order dated 31.10.2023, mandamus, of this nature sought for, seeking a positive direction for correction of particulars in the death certificate, cannot be considered.

8. In light of the same, while granting full liberty to the petitioner to approach the competent civil courts for remedy, this writ petition is dismissed. No costs.

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Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

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