



W.P(MD)No.12835 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12835 of 2024

R.Vasantha

... Petitioner

Vs.

The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pudukkottai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings O.Mu.A6/949/2023 dated 14.09.2023 on the file of the respondent and quash the same and direct the respondent to pass appropriate orders to issue death certificate of petitioners grandfather Muthu Valliyappa Chettiar within time fixed by this Court.

For Petitioner : Mr.K.R.Manimaran

For Respondent : Mr.G.V.Vairam Santosh,
Addl. Government Pleader.



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ORDER

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Heard both sides.

2.The petitioner's grandfather passed away long back. The petitioner wants to register the said death. The respondent took the stand that since the death took place before implementation of Central Act 8 of 1969 was promulgated, the petitioner's request cannot be complied with.

3.This issue has already been decided by me. Vide order dated 25.03.2024 in W.P.(MD)No.6943 of 2024 (Abul Majeeth Vs. The Revenue Divisional Officer, Devakottai, Sivagangai District.). I have held as follows:-

“5.I carefully considered the rival contentions and went through the materials on record. The first respondent asked a wrong question to himself. The question is not whether the Central Act 18 of 1969 is prospective or retrospective. The question is whether the petitioner can be granted relief. Before the Central Act 18 of 1969 was enacted, the registration of births, deaths and marriages Registration Act, 1886 was governing the field. Section 19 of the said Act reads as follows:-

“19. Duty of Registrar to register births and deaths of which notice is given.—Every Registrar of Births and Deaths of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized



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by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book:”

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Section 22 of the said Act provide for entry of birth or death. Section 22 of the Act read as follows:-

“22. Entry of birth or death to be signed by person giving notice.— (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar:”

Thus, there was a mechanism for registering one's birth and death. Of course, it was then optional. Only recently, it has been made compulsory. The learned Special Government Pleader drew my attention to Rule 9 of Tamil Nadu Registration of Births and deaths Rules, 2000 which is as follows:-

“9. Authority for delayed registration and fee payable thereof under section 13 (3) Any birth or death which has not been registered within one year of its occurrence shall be registered by an order of the Executive Magistrate not below the rank of a Revenue Divisional Officer] and on payment of late fee of 3 [rupees Five hundred].”

6.If there was no system of registering one's birth prior to 1969, the impugned memorandum has to be sustained. But there was a statute governing the field. The petitioner's parents failed to register his birth. Therefore, Rule 9(3) of the Tamil Nadu Registration of Births and Deaths Rules, 2000 can very well be applied. If the petitioner is unable to furnish any proof, the first respondent cannot be expected to exercise his power. If the petitioner is able to furnish materials such as earliest entry in the school records, then certainly the petitioner's birth can be registered subject to payment of late fee.



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7. In this view of the matter, the impugned memorandum is set aside. The matter is remitted to the file of the first respondent. The petitioner is directed to appear before the first respondent on 24.04.2024 at 03.00 pm. The petitioner shall furnish the materials available with him to show that he was born on 01.01.1960. If the first respondent is satisfied with the materials furnished by the petitioner, his date of birth as sought for shall be entered and certificate issued thereafter.”

4. In this view of the matter, the impugned order is set aside and the matter is remitted to the file of the respondent. The petitioner shall appear before the respondent on 15.07.2024 at 03.00 pm and place materials in support of her claim. On the respondent being satisfied with the materials offered by the petitioner, the petitioner's request shall be accepted. If the respondent is not satisfied, an appropriate order shall be passed by the respondent. I make it clear that I have not gone into the merits of the matter.

5. This writ petition is allowed on these terms. No costs.

27.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pudukkottai District.



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G.R.SWAMINATHAN, J.

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