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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 29.7.2024

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD) No.1538 of 2016

and

C.M.P.(MD) No.11329 of 2016

1. The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Maligai,
Madurai-2.

2. The Registrar of Birth and
Death,
Madurai City Municipal Corporation,
Aringar Anna Maligai,
Madurai-2.

Appellants

vs.

P.Anand

Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 5.8.2016 passed in W.P.(MD) No.14150 of 2016 on the file of this court.

For Appellants : Mr.S.Vinayak

For respondent : No appearance



JUDGMENT

A.D.JAGADISH CHANDIRA, J.

The present Writ Appeal has been filed challenging the order passed by the learned Single Judge dated 5.8.2016 passed in W.P. (MD) No.14150 of 2016 directing the appellants to carry out necessary correction in the Birth Certificate issued to the writ petitioner's son, as per provisions under Section 15 of the Birth and Death Registration Act and Rule 11 of the Tamil Nadu Birth and Death Rules, 2000, within a period of two weeks from the date of receipt of that order.

2. Factual background of the case is as under:-

i) On 22.5.2004, the writ petitioner got married with one Sri Rengaselvi and out of their wedlock, he got a male child on 19.7.2005, having born at Raghavendra Hospital, Kuruvikaran Salai, Madurai and he was named as Surjith Ajay.

ii) On communication from the hospital authorities, the second respondent, by his proceedings in CAR 949 of 2016 dated 9.3.2006 issued the birth certificate of the writ petitioner's son, wherein, the father's name of the child had been mentioned as M.Saravanan, which, mistake was found out by the writ petitioner only at the time of



applying Passport for his son and thereby, he had rushed to the second respondent, where, he was diverted to verify the hospital records, however, he could not do so as the hospital authorities informed him that they use to destroy their records, which are more than five years old and the record pertaining to the writ petitioner's son being ten years old, they do not have any record.

iii) When the writ petitioner had once again approached the second respondent and submitted a representation on 7.7.2016, however, nothing was fructified and thereby, having left with no other option, he had knocked the doors of the High Court.

iv) The learned Single Judge, had disposed the writ petition granting the relief by holding that the appellants are vested with power to do and make necessary correction in the matter of this nature and there is no impediment for the respondents to invoke the power vested with them. Aggrieved against the same, the present Writ Appeal has been filed.

3. Learned counsel appearing for the appellants would submit that Section 15 of the Birth and Death Registration Act and Rule 11 of the Tamil Nadu Birth and Death Rules, 2000, only clerical or formal



error can be corrected and the entire name of the person cannot be changed. He would submit that the writ petitioner had changed his name in the year 2012 by way of Gazette Notification subsequent to receipt of the birth certificate of his son. Suppressing the factual disputes, the writ petitioner has filed the writ petition and the order passed by the learned Single Judge, which is against the provisions of the Act and the Rule is liable to be set aside.

4. Though notice has been served on the respondent/writ petitioner, there is no representation on his behalf and hence, this court has decided to decide the case on merits with the materials available on record.

5. A perusal of the typed set of papers would disclose certain discrepancies in the case of the writ petitioner. They are as under:-

i) Firstly, page 1 of the typed set, viz., birth report furnished to the authorities by the hospital, produced by the appellants would disclose that the father's name has been mentioned as "**M.SARAVANAN**", based on which, birth certificate, as found at page 2 of the typed set of papers had been issued.



ii) Peculiar to note that, the signature of the writ petitioner viz., P.Anand is found as the recipient's signature at the bottom of the birth certificate.

iii) A Gazette Notification dated 9.3.2011 is found at pages 3 and 4 of the typed set of papers, wherein, the name of one M.Saravanan had been changed as P.Anand. There is no scope for assuming that it could be a record in respect of entirely a different person as the signature of the writ petitioner is found therein for receipt of the same.

6. The above discrepancies would establish that there is a lot of confusion in the case of the writ petitioner so far as disclosing his name in the records, however, suppressing such things, he had approached the writ jurisdiction and obtained an order, which cannot be sustained. Further, this court is of the view that this is not the forum to redress the grievance of the writ petitioner, when there are disputed facts to be resolved. Therefore, the order passed by the learned Single Judge is liable to be set aside. However, liberty is granted to the writ petitioner to pursue his remedy before the appropriate civil court.



7. In the result, the Writ Appeal is allowed. The order passed by the learned Single Judge dated 5.8.2016 in W.P.(MD) No.14150 of 2016 stands set aside. No costs. The connected Miscellaneous Petition is closed.

(A.D.J.C.,J.) (K.R.S.,J.)
29.7.2024

Index: Yes/No.
Internet: Yes/No.
ssk.

To

The Section Officer,
V.R. Section,
High Court,
Madurai.



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A.D.JAGADISH CHANDIRA, J.
and
K.RAJASEKAR, J.

ssk.

W.A.(MD) No.1538 of 2016

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