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W.P.(MD) No.26952 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.26952 of 2024

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... Petitioner

-vs-

- 1.The Registrar
(Birth and Deaths)
Primary Health Centre
Jameenkollankondan
Rajapalayam Taluk
Virudhunagar District
- 2.The District Revenue Officer
and District Birth and Death Registrar
District Collector Complex
Virudhunagar Town & District
- 3.The District Health Officer
Office of the District Health Services
Sivakasi Town
Virudhunagar District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order in Na.Ka. No.5747/A7/2024, dated 16.09.2024, on the file of the third respondent herein and to quash the same as arbitrary and illegal and consequently direct the respondents 1 and 3 to issue Birth Certificate by substituting the name of the petitioner's second husband, namely, K.Chornaraj instead of T.Mohanraj in the Birth Certificate of the petitioner's son, namely, Varun, within a time stipulated by this Court.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

Mr.S.Shanmugavel, learned Additional Government Pleader, takes notice for the respondents.

2. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



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3. This writ petition has been filed challenging the order, dated 16.,09.2024, passed by the third respondent, rejecting the petitioner's request for correction of the name of her son's father in the birth certificate as K.Chornaraj instead of T.Mohanraj.

4. The petitioner got married one T.Mohanraj on 25.03.2016 and thereafter, due to some misunderstanding, they got separated and the petitioner filed H.M.O.P.No.109 of 2021, before the Principal Sub Court, Srivilliputhur, for divorce, wherein she obtained a decree on 09.09.2022. In the meanwhile, the petitioner got married, on 16.05.2019, with one K.Chornaraj and out of the said wedlock, she gave birth of a male child on 27.08.2020. However, while she was admitted in the hospital for delivery, in the hospital records, her husband's name was wrongly mentioned as T.Mohanraj instead of K.Chornaraj. Consequently, in the birth certificate issued to her son, the name of his father was mentioned as T.Mohanraj instead of K.Chornaraj. Therefore, seeking to correct the name of her son's father in the birth certificate, the petitioner submitted a representation to the respondents. However, the request of the petitioner was rejected by the



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impugned order of the third respondent, on the ground that on the date of birth of the petitioner's son, her first marriage with T.Mohanraj was very much in existence. Challenging the same, this writ petition.

5. Only on the information furnished by the petitioner, her son's birth was registered and her son was issued with a birth certificate. She filed a divorce petition only on 21.06.2021 and divorce was granted on 09.09.2022. Whereas according to the petitioner, she married the second husband, namely, K.Chornaraj on 16.05.2019 itself and gave birth of her son on 27.08.2020. Therefore, the request made by the petitioner was rejected by the impugned order of the third respondent.

6. Though Section 15 of the Registration of Births and Deaths Act, 1969 provides the procedure for correction of the entry of birth or the death if it is erroneous in form or substance, or has been fraudulently or improperly made. In the present case, the petitioner has failed to establish that the entry in the Birth Certificate of her son relating to his father's name is erroneous in form or substance or has been fraudulently or improperly made. Mere statement by mother cannot be the basis for correction of entry in the birth



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certificate. If such statement is entertained, it will be contrary to the above stated provisions. Such a reckless statement can be made by any person as is done in the present case without realising the consequence. If such a statement is to be accepted, then it is possible that the petitioner, may thereafter, reverse her stand and state that the second husband is also not the father of her son. It will create so many complications to her son. Therefore, while making corrections relating to the father's name of a child, great caution is required. Merely on the basis of an unsubstantiated and baseless statement, the change of name of the father of the child cannot be considered and in the instant case, it was rightly rejected by the third respondent. If the petitioner proves that her son was born through the second husband K.Chornaraj, by way of scientific testes, then the request of the petitioner can be considered for change of his father's name in the birth certificate. In view of the same, this Court finds no infirmity or illegality in the impugned order passed by the third respondent.

7. Accordingly, this writ petition is dismissed. However, the petitioner is granted liberty to prove by a scientific method that her son was born through the second husband, namely, K.Chornaraj. If the petitioner



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proves so, the third respondent shall consider the petitioner's request and correct the name of her son's father in the birth certificate, in the manner known to law. No costs.

12.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

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(Birth and Deaths),
Primary Health Centre,
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