



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 3456 of 2024
Sudhakar Madhav Gaurkar and others Vs. Sou. Kanta Ishar Nande and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.M.Chandekar, Advocate for petitioners.
Mr. Umakant Sapkal, Advocate for respondent no.1.
None for respondent no.2.

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 07/10/2025.

1. Heard Mr. A.M.Chandekar, learned counsel for petitioners and Mr. Umakant Sapkal, learned counsel for respondent no.1. None appeared for respondent no.2.

2. This petition is directed against the order passed below Exhibit 1, by the Judicial Magistrate First Class, Warora. in Misc. Cri. Application No.73/2017.

3. The petitioner has assailed the order mainly on the ground that when respondent no.1 filed an application under Section 13 of the Registration of Births and Deaths Act, 1969 ("Act" for short) she did not place on record the earlier orders passed by the Civil Court as well as other orders passed by the Judicial Magistrate First Class which were relevant to the application under Section 13 of the Act.

4. He contended that respondent no.1 did not place the entire material and record before the learned Judicial Magistrate First Class which were relevant to consider the application under Section 13 of the Act. He submitted that on this ground alone, the order needs to be set aside.

5. Per contra, Mr. Umakant Sapkal, learned counsel for

the respondent no.1, submitted that there is no such provision under the Act to give an opportunity of hearing to other party/person More particularly, he invited my attention to the order passed by this Court in Criminal Writ Petition No.877 of 2023 (***Sudhakar Madhav Gaurkar & Ors Vs. Sau. Kanta Ishwar Nange and Anr.***) dated 14.12.2023.

6. I have perused the application filed by respondent no.1 before the learned Judicial Magistrate First Class. On perusal, it is evident that respondent no.1 did not disclose the earlier proceedings initiated by either of the parties. Consequently, there was no occasion for the learned Judicial Magistrate First Class to consider and decide the issue relating to those earlier proceedings.

7. The learned counsel for the petitioner relied upon the judgment of *Karnataka High Court in Writ Petition No. 50331/2012 and connected petitions in the matter of Muniyamma, C.Sandeep Babu, Chandrashekhar @ C. Chetan and C.Muniraju @ Madhusudan Vs. Devegowda, Tahsildar, Registrar of Births and Deaths* dated 26.06.2013, wherein Section 13 (3) of the Registration and Births and Deaths Act, 1969 was considered. In para 17 of the judgment, it has been held that while considering the application, the learned Magistrate was required to follow the procedure of issuing notice in two local daily newspapers having wide circulation. However, this issue need not be examined at this stage, because respondent no.1 filed an application, without incorporating details of earlier proceedings. Therefore, having regard to this point of limited ground that the respondent no.1 did not place entire record before this Court and more particularly, there is no contention raised in the application about earlier proceedings.

8. In view of above position, I am inclined to allow writ petition partly and remit the matter to the learned Judicial Magistrate First Class to decide afresh after giving an opportunity of hearing to all the parties. All points are kept open. It is made clear that this Court has not expressed any opinion on the merits of the case and concern Court shall decide all the issues in accordance with law.

(Siddheshwar S. Thombre, J)

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