

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

FRIDAY, THE 29TH DAY OF JUNE 2012/8TH ASHADHA 1934

WP(C).No. 30880 of 2011 (H)

PETITIONER(S):

1. K.S.MAYA,
W/O.A.LOURDU SWAMY, D/O.SURENDRA VARMA, AGED 34,
KUNNAKKAL KOVILAKAM, PALLIPPAD P.O.,
ALAPPUZA DISTRICT, PRESENTLY RESIDING AT VI/117 C,
KALAMASERY MUNICIPALITY, KALAMASSERY.
2. A. LOURDU SWAMY,
S/O.LATE AAROGYASWAMY, AGED 30, ARUMUKHAM STREET,
LOURDU NAGAR,
CHETPET-606801, PRESENTLY RESIDING AT VI/117 C,
KALAMASERY MUNICIPALITY, KALAMASSERY.

BY ADVS.SRI.G.KRISHNAKUMAR
SRI.TITTO THOMAS
SRI.K.A.ANI JOSEPH

RESPONDENT(S):

1. REGISTRAR OF BIRTH & DEATH,
ALUVA MUNICIPALITY, MUNICIPAL OFFICE, ALUVA-682 020.
2. CHIEF REGISTRAR OF BIRTH & DEATH,
PUBLIC OFFICE, MUSEUM, TRIVANDRUM-695 001.

R1 BY ADVS. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
R2 BY GOVERNMENT PLEADER SMT. SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-06-2012, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

DSV/-

WP(C).No. 30880 of 2011 (H)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 COPY OF THE O.P.531/2010 FILED BEFORE THE FAMILY COURT, ERNAKULAM.
- EXT.P2 COPY OF THE AFFIDAVIT FILED BY THE FIRST PETITIONER IN O.P.531/2010 FILED BEFORE THE FAMILY COURT, ERNAKULAM.
- EXT.P3 COPY OF THE AFFIDAVIT FILED BY K.HARIKRISHNAN IN O.P.531/2010 FILED BEFORE THE FAMILY COURT, ERNAKULAM.
- EXT.P4 COPY OF THE BIRTH CERTIFICATE DTD.17.9.2008 OF THE PETITIONERS' MINOR DAUGHTER.
- EXT.P5 COPY OF THE JOINT APPLICATION DTD.25.10.2010 PREFERRED BY THE PETITIONERS TO THE FIRST RESPONDENT TO CORRECT THE NAME AND FATHER'S NAME OF THEIR DAUGHTER IN THE BIRTH REGISTER.
- EXT.P6 COPY OF THE JOINT APPLICATION DTD.25.10.2010 PREFERRED BY THE PETITIONERS TO THE SECOND RESPONDENT TO CORRECT THE NAME AND FATHER'S NAME OF THEIR DAUGHTER IN THE BIRTH REGISTER.
- EXT.P7 COPY OF THE JUDGMENT DTD.5.10.2010 O.P.531/2010 OF THE FAMILY COURT, ERNAKULAM.

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE

DSV/-

ANTONY DOMINIC,J

W.P.(C)No.30880 of 2011

Dated this the 29th day of June, 2012

JUDGMENT

Petitioners have approached this Court seeking a direction to the respondents to correct the entries in their birth register regarding a minor girl born on 20.07.2008 at the Lakshmi Hospital, Aluva.

2. The case of the petitioners is that the first petitioner was married to one K.Harikrishnan. The marriage failed and thereupon, the first petitioner left the matrimonial home and started living with the second petitioner. During their cohabitation, a female child by name Bhadra Varma was born to the first petitioner. However, in the birth certificate, Ext.P4, issued by the second respondent, the name of the child was shown as Bhadra Varma.H and the father's name was shown as Harikrishnan.K.

3. By Ext.P5, petitioners made an application to the second respondent requesting for correction of the aforesaid particulars on the ground that the second petitioner is the

father of the child. It appears that on receipt of Ext.P5, the second respondent sought clarification and on the basis of the clarification obtained, the Municipality issued letter dated 23.02.2012, calling upon the first petitioner to produce documents evidencing that the petitioners are husband and wife and also regarding the paternity of the child. It was in the meanwhile, the petitioners have filed this writ petition seeking the relief aforesaid.

4. As already stated, Ext.P4 is the certificate issued by the second respondent, which show that the name of the child is Bhadra Varma.H and her father's name has been shown as Harikrishnan.K. Sri. Harikrishnan.K was the husband of the first petitioner, from whose matrimonial house, the petitioner left and started living with the second petitioner. Exts.P1, P2 and P3 are the records in relation to O.P.No.531/2010 filed by Sri.Harikrishnan and the first petitioner jointly under Section 13(b) of the Hindu Marriage Act for dissolution of their marriage.

5. In Ext.P3 affidavit filed by Sri.Harikrishnan, it is stated thus:

"Moreover, after leaving the matrimonial home, the second petitioner herein started cohabitation with another person viz. Lourd Swamy, S/o. Late Arogya Swamy, employee of Met Trade India Pvt. Ltd., EMS Road, North Kalamassery, and the second petitioner herein gave birth to a baby girl through the said Lourde Swamy and the said child is now aged one and a half years."

6. Therefore, Harikrishnan.K himself admits that the father of the child is the second petitioner.

7. In this writ petition also it is stated thus:

"After leaving the matrimonial home by the first petitioner, the petitioners herein started to live together and out of the said relationship, the first petitioner gave birth a girl child was born on 20.07.2008 in Lakshmi Hospital, Aluva."

8. Therefore, it is obvious that even according to Harikrishnan.K and the petitioners, the child was born to petitioners 1 and 2 herein. The averments to the above effect made before the Family Court were accepted by the Family Court and the marriage was dissolved by Ext.P7 order. In

such circumstances, it is unnecessary for the second respondent to insist that the petitioners should produce any further materials to prove the paternity of their child or the marriage of the petitioners.

Therefore, I direct the second respondent to make corrections in the entries in the birth register insofar as the name of the child and the name of the father are concerned, as sought for by the petitioners in Ext.P5 application. Orders shall be passed as expeditiously as possible, at any rate, within six weeks of production of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

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