

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2020

BEFORE

THE HON'BLE MR.JUSTICE S. SUNIL DUTT YADAV

WRIT PETITION No.9220/2020 (LB-BMP)

Between:

1. Sri Rangaprasad M.A.,
Age: 43 years,
Son of Sri Anantharaman M.S.
2. Smt. Ramya Narasimhamurthy,
Age: 39 years,
Wife of Sri Rangaprasad M.A.

Both residing at Flat No.103,
Sheshasai Apartments,
43, 2nd Cross Road,
Gavipuram Extension,
Bangalore – 560 019.

... Petitioners

(By Sri Venkatesh S. Arbatti, Advocate)

And:

1. The Chief Registrar of Births and Deaths
Bruhat Bangalore Mahanagara Palike,
N.R.Circle,
Bangalore – 560 001.
2. The Medical Officer,
Vanivilas,

Victoria Hospital Compound,
Sultan Road, Kalasipalya,
Bangalore – 560 002. ... Respondents

(By Sri K.N. Puttegowda, Advocate for R1 to R2;
V/o dated 31.08.2020, Sri Vinayaka V.S., HCGP is
directed to accept the notice for Government)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the endorsement dated 06.08.2020 (Annexure-G) issued by R-1 and etc.

This Writ Petition coming on for further hearing this day, the Court, made the following:

ORDER

Sri. Vinayaka V.S., learned High Court Government Pleader accepts notice for the 2nd respondent.

Petitioners are stated to be father and mother of Master Madhushree S. They have filed the present petition challenging the endorsement at Annexure-G dated 06.08.2020 whereby the application of the petitioners requesting changes in the register relating to the name of the child came to be disposed off stating

that in order to effect changes in the register of birth, necessary orders from the jurisdictional court requires to be obtained.

2. The petitioners submit that as they did not have any biological child from within the wedlock, they adopted Master Madhushree S, stated to have been born on 01.08.2019, after performing 'Datta Homam' and after following other religious ceremonies of adoption, as per Hindu Customs on 07.10.2019. Thereafter, the said adoption was registered as per the Deed of Adoption dated 09.10.2019 in the office of the Sub-Registrar, Basavanagudi, copy of the said registered Deed of Adoption is enclosed at Annexure-B, whereby the petitioners have taken in adoption the child of Sri. Sridhar. K as their child.

3. It is to be noticed that in the birth certificate of Master Madhushree S, names of his biological parents as Smt. Lakshmi J and Sri. Sridhar K, has been

made and copy of the said birth certificate is enclosed at Annexure-C. The petitioners state that they subsequently made an application to the 1st respondent – Authority, after completion of the procedure for adoption with a request to incorporate the names of petitioners as father and mother of Master Madhushree S, with information of having named the child as Master Aarnav. Copy of the application in Form No.1 is enclosed at Annexure-D and the representation made to the 1st respondent is enclosed at Annexure-E.

4. The 1st respondent has issued an endorsement, copy of which is produced at Annexure-G, whereby they have called upon the petitioners to obtain necessary orders from the Court in order to have entries in the register of births and deaths modified. The said endorsement is called in question in the present writ petition.

5. Learned counsel for the petitioners submit that the office of the Registrar General of India has issued a Circular dated 12.03.2012 in exercise of powers under Section 3(3) of the Registration of Births and Deaths Act, 1969, (for short 'the Act') which provides that in the event of children being taken in adoption otherwise than by institutions, the Registrar when the birth was originally registered, may take note of the details contained in the adoption deed and requisite changes may be made with respect to the name of the child and names and address of adopted parents.

6. Learned counsel appearing for the respondent – BBMP submits that after issuance of endorsement at Annexure-G, during the pendency of the proceedings before this Court, fresh endorsement came to be issued on 21.08.2020 providing that if the Deed of Adoption has been executed and registered in

accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956 the said details would be taken note of and the entries in the Register of Births and Deaths would be modified.

7. Taking note of the circular dated 29.08.2010 issued by the Chief Registrar of Births and Deaths purportedly in exercise of powers under Section 3(3) of the Act, it is clear that the directions contained in the circular are required to be adhered to for the purpose of uniformity by all the Registrars of Births and Deaths. It is also noticed that the State Government in order to effectuate the contents of the said circular dated 29.08.2010 and is self-explanatory.

8. In light of the same and in light of the submission made by the learned counsel appearing for the respondent – BBMP that the original endorsement has been revoked by virtue of the endorsement dated 21.08.2020 which would indicate that the entries made

would be modified without obtaining any orders from the Court, what remains is that directions are required to be passed in this matter.

9. The validity of the endorsement at Annexure-G is superseded by the endorsement dated 21.08.2020 and hence, question of setting aside the endorsement at Annexure-G does not arise. The application of the petitioners at Annexure-D is to be considered by the 1st respondent keeping in mind the Circular issued by the Chief Registrar of Births and Deaths dated 21.08.2020 so also the notification of the Government of Karnataka dated 29.05.2015. For the purpose of effectual consideration, the 2nd respondent is directed to forward necessary details as available regarding the child Master Madhushree S, stated to have born on 01.08.2019, to the 1st respondent. The 1st respondent thereupon to take note of the Circulars issued by the Central and State Government and take

appropriate steps to pass orders on the application and representation of the petitioners at Annexures – D and E respectively.

10. It is made clear that for the purpose of clarity and to avoid any ambiguity, the request is to be considered with respect to the change in the names of the parents as well as the child as per the adoption deed.

11. In light of the observations as made herein above and taking note of the urgency that is pleaded, the 2nd respondent is directed to transmit necessary records and intimation regarding the birth of the child and other related information as available with the 2nd respondent to the 1st respondent within a period of ten days from the date of receipt of a certified copy of this order. Thereafter, necessary orders to be passed by the 1st respondent within an outer limit of two weeks from

the date of receipt of necessary records from the 2nd respondent.

12. To enable effectual consideration of the representation already on record, petitioner is at liberty to give fresh representation with necessary enclosures, if so desired, along with a copy of this order.

Accordingly, the writ petition is ***disposed off***.

**Sd/-
JUDGE**

VP