

Ms. Vindhya Saxena & Anr vs East Delhi Municipal Corporation & Ors on 6 August, 2021

Author: Rekha Palli

Bench: Rekha Palli

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 7855/2021

MS. VINDHYA SAXENA & ANR.

Through Mr. Anuj Kumar Ranjan,

Versus

EAST DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through Ms. Garima Jindal Adv. for
Mukim Counsel for East DMC.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% 06.08.2021 CM APPL. 24452/2021 (Exemption)

1. Exemptions allowed, subject to all just exceptions

2. The application stands disposed of.

W.P.(C) 7855/2021

3. The present writ petition has been preferred on behalf of a minor girl, aged 6 years, through her father who is a co-petitioner along with her, seeking the following reliefs:

"a. issue appropriate writs or orders or directions to R.No.1 for striking off alias name i.e. 'Nitya Shrivastav' from the birth certificate of P.No.1;

b. issue appropriate writs or orders or directions to R.No.2 for striking off alias name i.e. 'Nitya Shrivastav' from the Aadhar card of P.No.1 and issue Aadhar card in the original name i.e. 'Ms. Vindhya Saxena' of P.No.1 adding the name of P.No.2;

c. issue appropriate writs or orders or directions to R.No.3 for getting the name corrected as 'Ms. Vindhya Saxena' in the school i.e. SLS DAV Public School of P.No.1 and further getting the name of P.No.2 added in the same record;

d. issue appropriate writs or orders or directions against R.No.3 for arbitrarily and illegally violating the law, rules, norms etc. In getting the name corrected in the birth certificate of P.No.1 unilaterally and further getting the Aadhaar card issued unilaterally in the alias name i.e. 'Nitya Shrivastav' of P.No.1;

e. call all the relevant records from R.No.1 pertaining to the issuance of New Birth certificate of P.No.1;

f. call all the relevant records from R.No.2 pertaining to the issuance of Aadhar Card to P.No.1;

g. award the litigation expenses to the petitioners;

h. pass any such order orders/directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

4. The brief facts which emerge from the record are that the marriage of petitioner no.2 was solemnized with respondent no.3 on 07.03.2014, and they were blessed with a minor daughter on 26.01.2015, who has been arrayed as petitioner no.1 in the present petition. At the time of her birth, the name of petitioner no.1 was recorded as 'Ms. Vindhya Saxena' in the records of the respondent no.1/EDMC and a birth certificate was accordingly issued on 22.07.2015. It appears that after her birth, a Sukanya Samridhi Account (SSA) was opened with the State Bank of India in the name of petitioner no.1, where she is described as 'Ms. Vindhya Saxena'. Her name was also added as a nominee in respect of a LIC Policy taken by her father/petitioner no.2.

5. Soon thereafter, matrimonial disputes arose between petitioner no.2 and respondent no.3, who are since living separately. As a consequence, the petitioner no.1/minor daughter is residing with her mother/respondent no.3, who approached the respondent no.1/EDMC to issue a revised birth certificate by incorporating the petitioner no.1's new name - 'Ms. Nitya Shrivastav'. Upon the aforesaid request made by the mother, the respondent no.1 issued a revised birth certificate on 10.08.2018, wherein the petitioner no.1's name is described as 'Ms. Vindhya Saxena alias Ms. Nitya Shrivastav'. The said certificate also mentions the name of the petitioner no.2 as her father and that of respondent no.3 as her mother.

6. At the outset, it has been put to the learned counsel for the petitioner no.2 as to why has the minor daughter been impleaded as a co-petitioner, especially keeping in view the nature of reliefs sought in the petition, and that too in the absence of any averment that the petitioner no.1 is unhappy with the name given to her by respondent no.3. However, he has no satisfactory response thereto.

7. In fact, it appears that the petitioner no.2 is primarily aggrieved by the use of his estranged wife's surname i.e. Shrivastav in their daughter's name. He has, therefore, sought a direction for striking off the name 'Ms. Nitya Shrivastav' from the petitioner no.1's revised birth certificate, and has also sought a further direction that the AADHAR Card issued to her be revised by incorporating the

name 'Ms. Vindhya Saxena', which was given to her at the time of her birth.

8. Learned counsel for the petitioners submits that as the petitioner no.2 is the biological father and natural guardian of the petitioner no.1 and has been regularly paying maintenance to her; he is entitled to claim that the minor child must solely use the name given by him at the time of her birth. He submits that the respondent no.3 has no right to change the name or surname of the petitioner no.1 and must use the name given by him to petitioner no.1 at the time of her birth. He further submits that the petitioner no.2 is aggrieved by the unilateral change in name made by respondent no.3, as the same is likely to affect the petitioner no.1's rights under the Sukanya Samridhi Account as also the LIC Policy, which is under the name of 'Ms. Vindhya Saxena'. He also submits that despite the petitioner no.2 paying regular maintenance, his name is not reflected as the father of petitioner no.1 in the records of SLS DAV Public School

- where the petitioner no.1 is presently studying.

9. Having perused the revised birth certificate issued by respondent no.1/EDMC on 10.08.2018, I find that the name of the petitioner no.1 has been recorded as 'Vindhya Saxena alias Nitya Shrivastav'. It is, thus, evident that the petitioner no.2's plea that the minor child may be deprived of the benefits under the Sukanya Samridhi Account or the LIC policy on account of change in her name is wholly misconceived and is only an attempt to somehow settle scores with his estranged wife. It is highly unfortunate that the petitioner no.2, merely on account of being the biological father, is insisting that it is only the name which he had given to the petitioner no.1 at birth, should be always used by her and that too, in a situation where the minor child is residing with her mother. Once the revised birth certificate records both names of the petitioner no.1, there is absolutely no prejudice caused to the petitioner no.2 and there is no reason why the petitioner no.1 will not be permitted to avail the benefits under the Sukanya Samridhi Account or the LIC policy. I am constrained to observe that the petitioner no.2 is trying to assert his rights over his 6-year old daughter, merely because he happens to be the biological father and that too by raising grievances regarding change in her name, which has caused no prejudice whatsoever to the petitioner no.2.

10. For the aforesaid reasons, I find no merit in any of the reliefs sought by the petitioner no. 2, except prayer (c) to the extent it seeks the addition of his name in the school records of the petitioner no.1 as her father. It will, therefore, be open for the petitioner to move an appropriate application before SLS DAV Public School where the minor child is currently studying - which will, after giving due advance notice to respondent no.3, make the necessary changes in the school records and ensure that the name of the petitioner no.2 is also reflected therein. In case, the petitioner has any surviving grievance in respect of prayer (c), it will be open for the petitioner to move an appropriate application before the Family Court in the ongoing proceedings in the pending Child Custody Case No. 30/2020.

11. The petition is, accordingly, disposed of with the aforesaid directions.

REKHA PALLI, J AUGUST 6, 2021/acm