

Kerala High Court

Remya vs The Payyannur Municipality on 8 July, 2008

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 18084 of 2008(C)

1. REMYA, W/O.SUBHASH KUMARAN,  
... Petitioner

Vs

1. THE PAYYANNUR MUNICIPALITY, REP. BY  
... Respondent

2. THE SECRETARY, PAYYANNUR MUNICIPALITY, P

3. THE REGISTRAR OF BIRTHS AND DEATHS

For Petitioner :SRI.P.NARAYANAN

For Respondent :SRI.M.SASINDRAN

The Hon'ble MR. Justice ANTONY DOMINIC

Dated :08/07/2008

O R D E R

ANTONY DOMINIC, J.

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= =W.P.(C) = = = = =  
No. 18084 OF 2008C  
= = =

Dated this the 8th July 2008

J U D G M E N T

The challenge in this writ petition is against Exts. P6 and P7 orders passed by respondents 2 and 3 rejecting Exts. P4 and P5 applications made by the petitioner.

2. The facts of the case are that according to the petitioner, her husband's name is Subhash Kumaran. In support of this contention, petitioner is referring to Ext. P1, her husband's passport where his name is entered as above. Referring to Ext. P1(a), it is stated that her husband's name is entered in her passport also as above.

3. However, petitioner submits that in the marriage certificate and also in the birth certificate issued to their child, the name of the petitioner is wrongly entered as Subash P.V. Exts. P2 and P3 are the marriage certificate and the birth certificate referred to above. It is stated that realising the mistake as above, she submitted Exts. P4 W.P.(C) No. 18084 OF 2008 and P5 to respondents 2 and 3, seeking correction of Exts. P2 and P3 by incorporating her husband's name as Subhash Kumaran.

4. The requests so made by the petitioner has been rejected by respondents 2 and 2 by Exts. P6 and P7. In Ext. P6, the request has been rejected without any reason, but however, in Ext. P7, it is stated that in view of the circular issued by the Chief Registrar of Births and Deaths, the request cannot be considered. Counsel for the petitioner contends that while rejecting Exts. P4 and P5, as per Exts. P6 and P7 orders, respondents 2 and 3 have not exercised the statutory power vested in them. It is also contended that the aforesaid authorities have the power to examine the request made on merits and pass orders correcting the mistakes if they are satisfied that there exists a mistake. Learned counsel for the petitioner is also relying on a judgment rendered by this Court in Sivanandan v. Registrar of Births and Deaths {2007(3) KLT 721}.

5. I have heard the counsel for the petitioner and also the counsel for respondents 1 to 3, who have filed a counter affidavit also. According to the respondents, there is no mistake in this case to be corrected. This submission is made on the basis that the W.P.(C) No. 18084 OF 2008 entries of the name of her husband have been made in Exts. P2 and P3 on the basis of the entry in the school records.

6. Be that as it may, in my view, the matter needs to be reconsidered by respondents 2 and 3. A reading of Ext. P6 shows that although the petitioner had made a request, the 2nd respondent has not given any reason for rejecting Ext. P4 application seeking correction of Ext. P2 marriage certificate. Similarly, in Ext. P7, issued by the 3rd respondent, apart from making reference to the circular stated to have been issued the 3rd respondent also has not made any independent examination of the claim made by the petitioner. Therefore, there has been an improper exercise of the statutory power and for that reason Exts. P6 and P7 cannot be upheld.

7. Accordingly, Exts. P6 and P7 will stand quashed and respondents 2 and 3 are directed to reconsider the request made by the petitioner in Exts. P4 and P5 seeking correction of Ext. P2 marriage certificate and Ext. P3 birth certificate. Needless to say that while orders are passed as above, the judgment of this Court referred to above and also the materials to be produced by the W.P.(C) No. 18084 OF 2008 petitioner shall be duly adverted to.

8. It is also directed that before final orders are passed, the petitioner shall be given notice and an opportunity to make representation in this matter. Orders shall be passed as expeditiously as possible, at any rate within 4 weeks of production of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC JUDGE *jan/-*