

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22307 of 2013

Gnanaloussany Valmy

...Petitioner

Vs.

The Registrar of Marriages
District Registrar, Mylapore -
Chennai-28.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondent to issue the marriage certificate 32 of 1969 indicating the names of the petitioner as Mrs. GNANALOSSANY VALMY and that of her parents as (Father Name) Mr. ZEGANADIN VALMY and (Mother Name) Mrs. VIRAMMALLE VALMY.

For Petitioner : Mr.Sunny
For Mr.V.Raghavachari

For Respondent : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mr.R.P.Murugan Raja
Government Advocate

ORDER

The writ on hand has been filed to direct the respondent to issue the marriage certificate 32 of 1969 indicating the names of the petitioner as Mrs.Gnanalossany Valmy and that of her parents as (Father's Name) Mr.Zeganadin Valmy and (Mother's Name) Mrs.Viramalle Valmy.

2. The petitioner states that at the time of marriage the respondent had entered the name of her parents as “Jagannathan Vallmy” and “Anjalatsi Ammal”, instead of Zeganadin Valmya and Virammalle. The petitioner states that she is not conversant with English and had not noticed the error. She is a French citizen and the manner in which the names are spelt differs from the English. The father of the petitioner is also a French citizen. They have sought to apply citizenship for her daughter and at that time they had noticed error and accordingly, sought for rectification.

3. The petitioner approached the learned Additional Sub Judge, Pondicherry by filing E.C.O.P.No.23 of 2005 and sought for rectification. The petitioner states that the Court had verified the records and allowed the application which reads as follows:

“The Registrar of Births & Deaths, Oulgaret Municipality, Pondicherry is directed to rectify the name of the petitioner's father Zeganadin Valmy instead of DJEGANADIN VALMY and the name of the petitioner's mother as VIRAMALLE VALMY instead of VIRAMANY DITE ANDJALATCHYAMALLE VALMY and consequently to direct the Registrar of Birth's and Death's, Oulgaret Municipality, Pondicherry territory to enter the substance of the above order to be passed, in the margin or at the bottom of the said deed of birth of the petitioner GNANALOSSANY transcribed in the Etate Civil of Oulgarmet Municipality vide acte No.82 of 1949 recorded on the 4th March, 1949.”

4. Based on the above order the Oulgaret Municipality had issued a certificate on 14.05.2013 rectifying its records. On the strength of the certificate, the petitioner had approached the respondent. The respondent has not considered the claim of the writ

petitioner to correct the errors in the marriage certificate. Thus, the petitioner is constrained to move the present writ petition.

5. The learned counsel for the petitioner made a submission that as per the provisions of the French Civil Code, which is enforced in the Union Territory of Pondicherry, the original records are made available in the Civil Courts. Based on the original records available, the Additional Sub Judge, Pondicherry passed an order in E.C.O.P.No.23 of 2005. Therefore, the respondent ought to have corrected the name based on the order passed by the Additional Sub Judge, Pondicherry.

6. In order to verify the procedures followed for the purpose of passing an order in E.C.O.P.No.23 of 2005, this Court has directed the Additional Sub Judge, Pondicherry to submit a report. Initially a report was submitted by the Additional Sub Judge, Pondicherry, which was not satisfactory and the necessary verification done were not informed to this Court. Again the

Additional Sub Judge, Pondicherry was directed to submit further report clearly stating, whether a trial has been conducted or original certificates are verified before passing orders in E.C.O.P.No.23 of 2005. The Additional Sub Judge, Pondicherry submitted further report on 21.01.2022 which reads as under:

*“No.85/JUD/ASJ/PDY/2022
GOVERNMENT OF PUDUCHERRY
JUDICIAL DEPARTMENT
(SUB COURTS)*

Puducherry, Dt.20.01.2022

To

*The Hon'ble Registrar General,
High Court of Madras,
Chennai – 104*

Hon'ble Sir,

*Sub: Additional Sub Court, Puducherry – Writ
Petition No.22307 of 2013 on the file of the High
Court of Judicature at Madras, praying to issue
a writ of mandamus to direct the respondent to
issue the marriage certificate 32 of 1969
indicating the names of the petitioner as Mrs.
Gnanalossany Valmy and that of her parents as
(Father Name) Mr.Zeganadin Valmy and
(Mother Name) Mrs. Virammalle Valmy – Reg.*

Ref: 1.High Court's Order dated 16.12.2021 in

W.P.No.22307 of 2013.

2.Co.Lr.No.492/2021 dated 17.12.2021 of Assistant Registrar (CCC), High Court, Madras.

3.W.P.No.22307/2013, dt.07.01.2022 of the Hon'ble High Court of Madras.

I humbly submit that the petitioner by name Gnanalossany Valmy, D/o.Zeganadin Valmy and Virammalle, has filed E.C.O.P. No. 23 / 2005. I further submit that the original records pertaining to ECOPs relating to Birth, death and marriage were maintained at the Central Record of District Court, Puducherry and at the Pondicherry and Oulgarate Municipality. Further submit that on searching of the Central Record office, the original documents of the ECOP 23/2005 is not available. Further, in that ECOP the petitioner filed the true extract of the following documents obtained from the Oulgarate Municipality.

1. Extract of birth of the petitioner: Acte No.82 / 1949 of Oulgaret Municipality, dt.04.03.1949.

2. Extract of the deed of renonciation by Zeganadin Valmy. Acte No. 116, dt.07.10.1952.

3. Certified true copy of the order in ECOP No. 46 / 27 on the file of ASJ, Pondicherry, dt.29.08.1997.

4. Extract of deed of the marriage between Zeganadin VALMY and VIRAMMALLE, Acte No.81/1947 recorded on 05.06.1947, dt. 05.06.1947,

5. Extract of the birth of petitioner's mother Virammalle acte No.384 recorded on 26.08.1926, dt.22.08.1926.

Further I submit that, since the original documents not available in the ECOP bundle, and only the true extracts produced and marked my learned Predecessor not verified the originals at the time of passing the order.

This report humbly submitted as per the direction of the Hon'ble High Court in the above cited 3rd reference order, and humbly prays to accept the same.

*(S.MUTHU MURUGAN)
ADDITIONAL SUB
JUDGE
PUDUCHERRY*

7. The above report categorically states that originals were not verified and more specifically, the Civil Court records with reference to the French Civil Code, were also not verified before passing orders in E.C.O.P.No.23 of 2005. Based on the documents filed by the petitioner, E.C.O.P.No.23 of 2005 was allowed.

8. Such a practice of issuing an order by Courts can never be appreciated. The Courts are bound to conduct an enquiry in such circumstances, if any application is filed seeking rectification of

names or otherwise. The petitioner filed an application under Article 99 of the French Civil Code for rectification of the name of the petitioner's father and mother in the registration of births and deaths of Oulgaret Municipality, Pondicherry.

9. Merely based on the copies of the documents filed by the petitioner, the E.C.O.P.No.23 of 2005 was allowed and based on the order, the Oulgaret Municipality, Pondicherry also carried on rectification in the register. If such a procedure is followed, there is every possibility of abuse of process of law. Any such rectification of name or otherwise must be done by conducting a proper enquiry and after verifying the original Civil Court records if it is maintained with reference to the French Civil Code, which is enforceable in the Union Territory of Pondicherry. Once a petition is filed under Article 99 of the French Civil Code, the original records available with the French Civil Code must be verified and thereafter by conducting an enquiry appropriate orders must be passed.

10. Contrarily, merely based on the documents filed by the petitioner, the Court cannot pass such an order, which will result in abuse of process of law and sometimes there is a possibility of further error also. Even for attestation, the Gazetted Officers are verifying the original documents and attesting the xerox copy. However, in the present case, without looking into the original documents and without even conducting any enquiry merely based on the petition filed by the petitioner the relief sought for to alter the name of father and mother had been granted, which is directly in violation of all established procedures of Law to be followed by the Civil Court. Every Civil Court is expected to follow the established procedures even in an area where there is no specific procedures are contemplated.

11. It is not as if a relief can be granted merely based on the petition filed by any person. Any such petition filed must be enquired into properly and necessary verifications are to be done with reference to the original records and thereafter, appropriate

orders have to be passed. This being the established procedures to be followed by the Civil Court of law even in common parlance the procedures followed by the Additional Sub Judge, Pondicherry, is unknown to civil law. Therefore, this Court cannot approve such an order for the purpose of rectification of name of the petitioner's father and mother in the register of births and deaths.

12. Mr.R.Neelakandan, the learned Additional Advocate General appearing on behalf of the respondent made a submission that even as per Rule 13 - A of the Tamil Nadu Hindu Marriage (Registration) Rules, 1967, for Correction of entries in the Hindu Marriage Register certain procedures are contemplated, accordingly, *“No correction or alteration in material particulars like name, age, date or place shall be made in the Hindu Marriage Register without obtaining the sanction of the Registrar-General. Every correction or alteration made after obtaining such sanction shall be made by the Marriage Registrar by a note in the foot note, without any*

alteration of the original entry and it shall be signed and dated by him”.

13. Therefore, every such correction or alteration must be done by scrupulously following procedures as contemplated. Such procedures are mainly prescribed in order to avoid any abuse or misuse by any persons for effecting alterations or corrections. Thus, this Court is of the considered opinion that the order passed by the learned Additional Sub Judge, Pondicherry in ECOP.No.23 of 2005 cannot be relied upon for the purpose of effecting alterations and correction in the marriage register or otherwise.

14. Even the procedures followed by the Additional Sub Judge, Pondicherry is directly in violation of the established Civil Court procedures and therefore such a procedure shall not be followed hereinafter and only by conducting appropriate enquiry and on verification of original records such reliefs are to be considered

with reference to the applications filed under the relevant provisions of the French Code of Civil procedures.

15. However, this Court has not gone into the merits of the case, as the petitioner is yet to establish her case with reference to the original documents and by way of an adjudication. In this context, the petitioner is at liberty to approach the Competent Civil Court of law or the authority for the purpose of adjudication of issues on merits and with reference to the original records for the purpose of redressal of their grievances.

16. However, it is made clear that the Courts at Pondicherry are restrained from issuing any such orders without conducting any enquiry and without verifying original Civil Court records with reference to the French Civil Code or otherwise. Merely based on the copies filed by the petitioners, the Court cannot pass orders without conducting any trial or enquiry. Such a procedure is known to law and cannot be approved by this Court.

17. Thus, the Courts at Pondicherry are directed to entertain such applications, consider the same and pass appropriate orders only after the verification of the original documents and after conducting an enquiry in the manner prescribed under law.

18. With these directions, the Writ Petition stands disposed of. No costs.

24.01.2022

Jeni/Kan

Internet : Yes

Index : Yes

Speaking order : Yes/No

Note: The Registry is directed to mark copy of this order to the Principal District Judge, Pondicherry.

To

The Registrar of Marriages
District Registrar, Mylapore -Chennai-28.

W.P.No.22307 of 2013

S.M. SUBRAMANIAM, J.

Jeni/Kan

W.P.No.22307 of 2013

24.01.2022