

GANG060007562022



Presented on : 18.10.2022
Registered on : 18.10.2022
Decided on : 18.10.2022
Duration :Years/Months/Days
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**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS
ATPERNEM**

**(Before Mrs. Sunita A. Gaunekar, Judicial Magistrate First Class
,Pernem)**

Criminal Misc. Appln.No.123/2022

Mr.Raju Prabhakar Nikam,
Son of Prabhakar Nikam,
25 years of age,
R/o. Malpe, Pernem Goa.

..... Applicant

Versus

The Registrar of Births and Deaths,
Village PanchayatVirnoda,
Pernem Goa.

..... Respondent

Applicant represented by Learned Advocate Shri. S.S.Dessai
under Free Legal Aid.

Respondent represented by its Secretary.

ORDER

(Delivered on this the 18th day of the month of October of the year 2022)

This Order shall dispose off an application at Exhibit C-1 filed by the Applicant Mr. Raju P. Nikam, for registration of birth of his daughter Miss Lilisha Nikam under Section 13(3) of Registration of Births and Deaths Act 1969.

2. It is the case of the Applicant that his daughter Miss Lilisha Nikam was born on 05.12.2019 at Malpem, Pernem, Goa, however, her birth was not registered before the Village Panchayat Virnoda, Pernem, Goa or any of the authorities in Goa or in any other place in India within the stipulated period of time due to his illiteracy.

3. The Applicant has produced the following documents in support of his case:

- i) Non-availability Certificate dated 17.10.2022 issued by the Secretary, Village Panchayat of Virnoda, Pernem, Goa;
- ii) Aadhar Card of the daughter of the Applicant and
- iii) Affidavit of one witness.

4. Perused the application, the Affidavit of the Applicant and the witness namely Shri. Bashi M. Pawar, the neighbour of the Applicant and the documents produced.

5. Heard Learned Advocate Shri. S. S. Dessai for the Applicant under Free Legal Aid. The Respondent has endorsed his say on the application stating that necessary decision be taken in the matter.

6. The Applicant has filed an affidavit in support of the averments made by him in the application. The witness produced by the Applicant in support of his case has stated in his Affidavit that the daughter of the Applicant was born on 05.12.2019 at Malpem, Pernem, Goa. The copy of Adhar card of the daughter of the Applicant produced on record by the Applicant shows the date of birth of his daughter as 05.12.2019 and place of birth as Malpem, Virnora. The Non-availability Certificate dated 17.10.2022 issued by the Secretary, Village Panchayat of Virnoda, Pernem showing that the birth of the daughter of the Applicant is not found in their registration records from 30.07.1973 to 17.10.2022 reveals that the birth of the daughter of the Applicant was not registered.

7. The Hon'ble Madras High Court in the case of **Velu Vs. Madathi, AIR 1992 Madras 224** has observed that in view of section 13(3) of the Registration of the Births and Deaths Act, 1969, when any birth or death had not been registered within one year of its occurrence, it could be registered only on an order made by a Magistrate of the First Class. It was further observed that no particular procedure is prescribed either under the Act or the Rules, regarding the manner in which the Judicial Magistrate is to verify correctness of the birth or death. The very fact that no particular procedure is prescribed for this verification would imply, that all that the Judicial Magistrate is concerned with under section 13(3) of the Act is, verification of the correctness of the birth or death. Sub-section (3) as it stands, does not contemplate the learned Magistrate to verify the correctness of the date of birth or death or to hold an inquiry in the event of a dispute over the exact date of death or birth. The verification has to relate only to the correctness of the fact of birth or death. In other words, the Learned Magistrate will have to be satisfied that the birth or death had in fact taken place. Deciding the exact date of death or birth in the case of a dispute regarding the date is beyond the scope of section 13(3).

8. In the preset case, I find that the document i.e Adhar card of the daughter of the Applicant produced on record by the Applicant showing her date of birth as 05.12.2019 and place of birth as Malpem, Virnora, Goa vis-à-vis the Affidavits of the neighbour of the Applicant affirming the fact that the daughter of the Applicant was born on 05.12.2019 at Malpem, Virnora, Goa are good proofs of the date and place of birth of the daughter of the Applicant. I have verified the genuineness/ correctness of the fact of the birth of the daughter of the Applicant based on the document i.e Adhar card of the daughter of the Applicant and Affidavits of the Applicant and the witness produced by the Applicant.

9. Considering the material on record and in view of the above stated reasons, I am satisfied that the daughter of the Applicant Miss Lilisha Raju Nikam was born on 05.12.2019 at Malpe, Virnora, Goa and that her birth is not registered either before the Village Panchayat of Virnoda, Pernem, Goa or any other concerned authority in Goa or elsewhere in India and hence inclined to grant the present application and pass the following:-

ORDER

1. The application stands granted.

2. The Secretary, Village Panchayat of Virnoda, Pernem, Goa shall register the date of birth of the daughter of the Applicant Miss Lilisha Raju Nikam as 05.12.2019 and place of birth as Malpe, Pernem Goa, upon payment of prescribed fees by the Applicant as required in accordance with the provisions of law.
3. The necessary particulars of the birth to be furnished by the Applicant in the form prescribed under Rule 5 of Goa Births and Deaths Rules 1992.

Proceedings closed.

Pronounced in the Open Court.

(Mrs. Sunita A. Gaunekar)
Judicial Magistrate First Class,
Pernem

vn/-