

IN THE COURT OF THE XV ACMM, BENGALURU**Dated this the 30th April 2022.****Present: Sri Lokesh D. Havale, B.A, LLB.,
XVth ACMM, Bengaluru****Crl.Misc.No.1884/2022**

Petitioner:- Smt.Gayathri.J.
Aged 51 years,
D/o.Narayanaswamy,
R/at No.17/2, 1st Main Road,
Chikka Adugodi, Dharmaram College,
Madiwala, Bangalore-560 029.

(By Smt.Manju, Advocate)

V/S

Respondent:- The Commissioner, BBMP, Bengaluru.

(By Smt.G.B.Advocate)

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ORDER

This petition is filed by the petitioner under Section 13[3] of the Birth and Death Registration Act praying to direct the respondent to make an entry of the date of birth of petitioner as 10.10.1970 in the birth register maintained by the respondent.

2. The facts of the petition in brief are as under:

i] That the petitioner is the permanent resident of R/o- No.17/2, 1st Main Road, Chikka Adugodi, Dharmaram College, Madiwala, Bangalore-560 029.

ii] By oversight, inadvertence and bonafide mistake, the date of birth of the petitioner by name Gayathri.J., D/o.Narayanaswamy and Smt.Kamamma born on 10.10.1970 R/o- No. 17/2, 1st Main Road, Chikka Adugodi, Dharmaram College, Madiwala, Bangalore-560 029 was not brought to the notice of the respondent. As such, there is no entry in the concerned birth register maintained by the respondent.

iii] The petitioner knew this fact when she went to take the birth certificate. Hence, prayed to allow the petition.

3. Pursuant to the service of notice, the respondent appeared through his counsel and filed objections denying the averments made in the petition stating that the birth of the petitioner is not within the limits of BBMP and false petition has been filed by creating the documents. Hence prayed to dismiss the petition.

4. The petitioner filed an affidavit in lieu of her chief-examination and examined herself as PW.1 and got marked the documents as per Ex.P.1 to P.4. On the other hand the respondent did not lead any evidence.

5. The points that arise for the consideration of this Court are:

1] Whether the petitioner has made out grounds to register her date of birth as 10.10.1970 in the register maintained by respondent?

2] What Order?

6. The finding of this Court on the above points are as under:

Point no.1: In Affirmative.

Point no.2: As per final order for the following,

REASONS

7. **Point no.1:** In her affidavit, the petitioner has sworn that petitioner is the permanent resident of R/o- No.17/2, 1st Main Road, Chikka Adugodi, Dharmaram College, Madiwala, Bangalore-560 029. By oversight, inadvertence and bonafide mistake, the date of birth of the petitioner by name Gayathri.J., D/o.Narayanaswamy and Kamalamma, born on 10.10.1970 R/o-No. 17/2, 1st Main Road, Chikka Adugodi, Dharmaram College, Madiwala, Bangalore-560 029 was not brought to the notice of the respondent. As such, there is no entry in the concerned birth register maintained by the respondent. The petitioner knew this fact when she went to get the birth certificate. The petitioner has produced and got marked the document Ex.P.1 i.e. the non-availability certificate. In the said document, the date of birth of petitioner is stated to have not been registered as 10.10.1970 in the office of the respondent. Ex.P.2 is the notarized copy of Aadhar Card of the petitioner, which is verified with the original at the time of marking. In Ex.P.2 the date of birth of the petitioner is mentioned as 10.10.1970. Ex.P.3 is the notarized copy of Voter Card of the petitioner, which is verified with the original at the time of marking. Ex.P.4 is the notarized copy of Pan Card of petitioner, which is verified with the original at the time of marking. The counsel for the respondent cross-examined the petitioner but nothing worth was elicited in the cross-examination of petitioner to disbelieve her case. The respondent also did not lead any evidence on his side.

8. The Aadhar Card, Pan Card, Voter I D, Passport or any other identity or address proof document, wherein the date of birth is mentioned, is though issued by Government Authority is not reliable as a conclusive proof of date of birth. However it is difficult to obtain school record for a person, who has not attended the school and it is also difficult to obtain medical

records of the birth for a person, who has taken birth in the house. The enquiry in this case is made in respect of verification of date of birth and all the documents which are issued by the Government Authorities depict the date of birth of the petitioner as 10.10.1970 and therefore this Court is satisfied that the date of birth of the petitioner is 10.10.1970. Moreover an entry in the register of births or deaths is not conclusive evidence of the disputed date of birth or death so also an entry pursuant to the directions of the Magistrate under Section 13(3) of RBD Act. The order of the Magistrate binds only the Registrar and not others. Hence, it is just and necessary to direct the respondent to enter the date of birth of the petitioner by name Gayathri.J., D/o.Narayanaswamy and Smt.Kamalamma, in the birth register maintained by the respondent.

9. On perusal of the affidavit and the documents produced by the petitioner, it appears from the records that the birth certificate is required for the purpose of documentation and the petitioner has no malafide intention. Hence, this Court answered the above point no.1 in Affirmative.

10. Point no.2: In view of the above reasons given on point no.1, this Court proceeds to pass the following:-

ORDER

The petition filed by the petitioner u/s 13[3] of the Birth and Death Registration Act is allowed with no order as to costs.

The respondent is directed to enter the date of birth of the petitioner by name Gayathri.J., D/o.Narayanaswamy and Smt.Kamalamma R/o- No. 17/2, 1st Main Road, Chikka Adugodi, Dharmaram College, Madiwala, Bangalore-560 029 as 10.10.1970 in the birth

register and to issue the birth certificate to the petitioner as per law by taking late fees.

(Fed to the Laptop computer to my dictation by the Stenographer, after verified by me, print taken by him and after signed by me, pronounced in the Open Court dated this the 30th April, 2022)

[Lokesh D. Havale]
XVth ACMM, Bengaluru.

ANNEXURE:

List of witnesses examined on behalf of Petitioner:

PW1: Gayathri J., D/o.Narayanaswamy

List of documents exhibited on behalf of petitioner:

Ex.P.1: Non-availability certificate

Ex.P.2: Notarized copy of Aadhar Card

Ex.P.3: Notarized copy of Voter Identity Card.

Ex.P.4: Notarized copy of Pan Card.

List of witness and documents for respondent:

-Nil-

XVth ACMM, Bengaluru.