

(2016) 09 UK CK 0014

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2460 of 2016.

Puneet Kansal - Petitioner @HASH State of Uttarakhand and Others

Date of Decision : 06-09-2016

Acts Referred:

Registration of Births and Deaths Act, 1969 — Section 13, Section 15
Registration of Births and Deaths Rules, 2003 — Rule 11

Citation : (2016) 119 ALR 222 : (2017) 1 UAD 496

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Mr. Aditya Singh, learned counsel, for the Petitioner; Mr. P.C. Bisht, Standing Counsel, for the State of Uttarakhand; Mr. Sandeep Kothari, Advocate, for the Respondent No. 3; Mr. Gaurav Singh, Advocate, for the Respondent No. 4

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.(Oral) - The petitioner before this Court is challenging an order dated 18.07.2016 passed by Additional District Registrar (Births and Deaths)/Chief Medical Officer, Haridwar by which he has directed the Health Officer of Nagar Nigam, Haridwar to cancel the death certificate issued by him on 19.12.2015. Subsequently, order dated 21.07.2016 of the Health Officer, Nagar Nigam, Haridwar has also been challenged, which has cancelled the death certificate issued on 19.12.2015 in compliance of the above direction of the Chief Medical Officer.

2. The case of the petitioner is that he is the grandson of one Late Sri Sunder Lal and his grandmother's name is Late Mrs. Tarawati. According to the petitioner, his grandmother died on 15.03.1980 and it is verified from the Will dated 16.03.1988 of the testator i.e. his grandfather, which is duly registered Will in which the date of death of his grandmother is mentioned as 15.03.1980. The case of the petitioner before this Court is that his aunt i.e. respondent No. 4 ? Mrs. Beena Gupta has usurped the property, which belongs to her grandfather, i.e. the grandmother of the petitioner. According to the petitioner, this property can be used only for charitable purposes, as per the Will. This assertion is made

by the petitioner relying upon the Will of the testator. The petitioner admittedly has no concern with the said property except that it belongs to her grandmother and is liable to be used for charitable purposes, according to the petitioner.

3. On the strength of the mention that Smt. Tarawati died on 15.03.1980 in the will of his grandfather, the petitioner procured the death certificate, as mentioned above, and thereafter it was duly recorded in the Municipal records, Nagar Palika, Haridwar as well that his grandmother died on 15.03.1980.

4. Thereafter, on an application/complaint moved by respondent No. 4 before the Registrar (Births and Deaths), Haridwar it appears that the Registrar (Births and Deaths), Haridwar, which is with the Chief Health Officer, Haridwar that the death certificate has been procured from the local body on the basis of forged and fabricated documents, wrongly mentioning the date of death of Smt. Tarawati as 15.03.1980 whereas the actual date of death is 15.03.1981, which is duly registered.

5. A letter was forwarded by the Registrar (Births and Deaths), Nagar Nigam, Haridwar to District Magistrate, Haridwar with a request to enquire into the matter. The impugned orders appears to have been passed in pursuance of a complaint forwarded by the Registrar (Births and Deaths), Haridwar to the District Magistrate. It has come in the impugned order that the date of death of Late Mrs. Tarawati is already registered with the Registrar (Births and Deaths), Haridwar as 15.03.1981 and in case, any correction in the date of death has to be made in view of Section 15 of the Registration of Births and Deaths Act, 1969.

6. On the other hand, the petitioner took a different path altogether by moving a fresh application under Section 13 of the Registration of Births and Deaths Act, 1969 that too initially before the Registrar (Births and Deaths) for registering a delayed information of date of death. This can be done under the procedure given under Section 13 of the Registration of Births and Deaths Act, 1969 read with Rule 9 of Registration of Births and Deaths Rules, 2003 framed therein.

7. It appears that no such procedure has been adopted. Had this procedure been adopted it would have come to the knowledge of the authorities that the date of death duly registered is 15.03.1981, registered with the Registrar (Births and Deaths). Mr. Gaurav Singh, learned counsel for respondent No. 4 has produced before this Court a certificate which shows that the date of death of Mrs. Tarawati is 15.03.1981 registered with the authorities as early as 24.12.1986. A copy of the said certificate shall be kept on record. The date of death clearly mentioned in the said certificate is 15.03.1981.

8. Learned counsel for the respondent would therefore argue that this was well in the knowledge of the petitioner and if at all they wanted to correct the date of birth, the correct procedure is given under Sections 13 and 15 of the Registration of Births and Deaths Act, 1969, which read as under:-

"13. Delayed registration of births and deaths-(1) Any birth of which information

is given to the Registrar after the expiry of the period specified therefore, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action.

14.

15. Correction or cancellation of entry in the register of births and deaths - If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation."

9. From the perusal of the above referred provisions of law i.e. Sections 13 and 15 of the Registration of Births and Deaths Act, 1969 as well as considering the Rule 11 of Registration of Births and Deaths Rules, 2003, it is clear that the order dated 18.07.2016 and order dated 21.07.2016 passed by Chief Medical Officer, Nagar Nigam, Haridwar and Chief Health Officer, Nagar Nigam, Haridwar, respectively are just and proper orders. No anomaly is found in these two orders.

10. The writ petition lacks merit and is hereby dismissed. No order as to costs.