
(2011) 09 KL CK 0050
In the High Court Of Kerala
Case No : W.A. No. 1201 of 2008

Secretary, Paippad Grama Panchayath	APPELLANT
Vs	
Tessy P. Das	RESPONDENT

Date of Decision : 05-09-2011

Acts Referred:

Registration of Births and Deaths Act, 1969 — Section 10, 7(2), 8, 9

Citation : AIR 2012 Ker 21 : (2011) 4 CivCC 477 : (2011) 4 ILR (Ker) 1 : (2011) 4 KLJ 36

Hon'ble Judges : Jasti Chelameswar, J;Antony Dominic, J

Bench : Division Bench

Advocate : V. Premchand, for the Appellant; Liji J. Vadakedom, for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—Respondent in WP(C) No. 13194/2007 is the appellant. The writ petition was filed by the respondent herein to direct the appellant to register the death of her husband Sri Jose Das, T.V. and to issue a death certificate. The writ petition was allowed by judgment dated 28th of November, 2007 and it is aggrieved by the said judgment, this appeal is filed.

2. The facts which led to the filing of the writ petition are that the husband of the respondent, a resident of Paippadu Grama Panchayat in Kottayam District died at Madurai in Tamil Nadu. His dead body was brought to Paippadu and was buried at the cemetery of St. Thomas Church, Paippadu, his parish church. Ext. P-3 is the certificate issued by the Vicar of the Church. Enclosing Ext. P-3, the respondent made an application for registration of death and to issue a death certificate. But the application was rejected by Ext. P-4 order of the appellant on the ground that the death occurred outside the territorial jurisdiction of the Paippadu Grama Panchayat and therefore cannot be registered. It is aggrieved by the said order, the writ petition was filed with the prayer as stated above.

3. Rejecting the contention of the appellant that u/s 7(2) of the Registration of Births and Deaths Act, 1969, a death occurred outside the territorial jurisdiction of the Registrar appointed under the Act cannot be registered, the learned Single Judge allowed the writ petition. The reasoning of the learned Single Judge contained in para 10 and 11 of the judgment reads as under

10. It appears to me that the respondent has read the two limbs in Section 7(2) i.e. the first limb of the Registrar making entries of information received by him u/s 8 or Section 9 and the second limb of the Registrar taking steps to inform himself of death taking place within his jurisdiction conjunctively and taken the view that he is bound to register only those information received in respect of deaths taking place within his jurisdiction. The first limb in Section 7(2) and the second limb therein in my view, are to be read disjunctively and not conjunctively. The Registrar will have an obligation u/s 7(2) to register particulars regarding births or deaths, regarding which information is given to him, u/s 8 or 9 wherever death or birth takes place. Such an interpretation is to be given to Section 7(2) as otherwise provisions like Section 8(e) obliging village headmen, police officers and authorised persons like Parish priests to convey information to registrars will become otiose.

11. For all the above reasons, I hold that Registrars" appointed by the State Government u/s 7 of the Registration of Births and Deaths Act, 1969 for a given local area, are competent to Register of Births and Deaths taking place outside the local areas provided information with regard to the birth or death is duly notified to them u/s 8 or 10 of the Act. In such cases the Registrar will have to be convinced regarding the identity of the child born or person who is dead on the basis of dependable materials. A declaration will have to be insisted from the person aspiring for registration to the effect that the particulars sought to be registered are true and correct and that the particulars have not been registered anywhere else in India and also that the same does not run in conflict with particulars registered by any other authority outside India.

4. Before us also, counsel for the appellant reiterated the contention that u/s 7(2) of the Act, the Registrar has power only to register death which has occurred within the territorial jurisdiction of the Panchayat of which the appellant is the Secretary. However, we are unable to accept the contention.

5. Section 7(2) of the Act reads as under:

(2) Every Registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him u/s 8 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

6. A reading of the provision shows that as rightly held by the learned Single Judge, that it contains two parts. The first part obliges the Registrar to enter in the register maintained for the purpose of registration of births and deaths,

information given to him u/s 8 or 9. The second part directs that the Registrar shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered. Comparison of these two limbs of Section 7(2) therefore shows that in the first part, what is entered in the register maintained by the Registrar are information "given to him" under Sections 8 and 9, whereas, under the second part, the Registrar is required to "inform himself of every birth and every death which takes place in his jurisdiction". Therefore, the operation of the former limb of the section is not restricted to the area within the jurisdiction of the Registrar, while the scope of the latter part of this Section is circumscribed and it operates within the area of his jurisdiction. That apart, while the information under the former part is "given to him", the latter part requires him to "inform himself".

7. Further the second limb of Section 7(2) of the Act starts with the word "also", which suggests that the duty under the second limb of the section, is in addition to the duty under the first limb. For these reasons also, we fully concur with the view taken by the learned Judge that Section 7(2) of the Act is to be read disjunctively and not conjunctively.

8. This conclusion also supports the view taken by the learned Single Judge and therefore we are of the opinion that the judgment does not suffer from any infirmity warranting interference in this appeal.

Writ appeal is only to be dismissed and we do so.