

(2000) 08 KAR CK 0037

In the Karnataka High Court

Case No : Criminal Revision Petition No. 337 of 1999

State of Karnataka

APPELLANT

Vs

Smt. Annakka

RESPONDENT

Date of Decision : 04-08-2000

Acts Referred:

Registration of Births and Deaths Act, 1969 — Section 13 (3)

Citation : (2000) ILR (Kar) 4770 : (2001) 3 KarLJ 401 : (2000) 4 KCCR 2674

Hon'ble Judges : G. Patribasavan Goud, J

Bench : Single Bench

Advocate : Sri Bhavani Singh, High Court Government Pleader, for the Appellant;

Judgement

1. The revision is directed against the order of the learned Magistrate passed u/s 13(3) of the Registration of Births and Deaths Act, 1969 ("Act" for short). The applicant, Smt. Annakka sought an order of the learned Magistrate u/s 13(3) of the Act with regard to registration of birth of her son, Soogappa. Sri Bhavani Singh, learned High Court Government Pleader submits that except the statement on oath of the applicant, there was not an iota of material to show that the applicant's son Soogappa was born on 22-6-1964 i.e., the date on which, according to the applicant, Smt. Annakka, she gave birth to the said son, Soogappa.

2. The submission of Sri Bhavani Singh, learned High Court Government Pleader, appears to be on the footing that the moment the learned Magistrate passes an order u/s 13(3) of the Act, the correctness of the date of birth of the child concerned gets adjudicated upon, and that for all purposes, it will be taken that a competent Court has adjudicated upon the correctness of the said date of birth. It is not so. Sections 8, 9 and 10 of the Act cast upon certain persons a duty to inform the Registrar, inter alia, of the birth of a child. If there is any delay in so informing, and consequently any birth has not been regis- registered within one year of its occurrence, then all that Section 13(3) provides is that it shall be so

registered only on an order made by a Magistrate of the First Class or the Presidency Magistrate, as the case may be. As the very provision, namely subsection (3) of Section 13 of the Act makes it clear, the learned Magistrate passes that order not after verifying the correctness of the date of birth but only after verifying the correctness of the birth. The correctness or otherwise of the date of birth concerned therefore is totally irrelevant in a proceeding u/s 13(3) of the Act. It is only the fact of birth that is relevant. That is how the said Section 13(3) requires the learned Magistrate to verify the correctness of the birth. Such verification is done like in the present case, by accepting the statement on oath of the applicant, the mother, the learned Magistrate passes an order, and, when he does so, necessary entry will be made by the Registrar. Any such entry made in pursuance of an order u/s 13(3) of the Act, cannot be blown out of proportion. As His Lordship Justice K. Jagannatha Shetty of this Court, as he then was, observed in *H. Subba Rao Vs. The Life Insurance Corporation of India and Another*, entry made by the Registrar pursuant to an order of the Magistrate cannot carry higher probative value and its proof must necessarily depend upon the facts and circumstances of each case. His Lordships held thus in the said decision:

"... It is an accepted principle that an entry in the Register of Births is not conclusive evidence of the disputed date of birth. So also, an entry made pursuant to the direction of the Magistrate, u/s 13(3) of the Act".

Section 13(3) of the Act provides:

"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".

The policy of the law embodied in the section, as it appears to me, is to avoid manipulation in the entries relating to the date of births and deaths. Such entry shall be made immediately after the occurrence. Precaution should be taken while making delayed entries. The law says that an entry which has not been made within one year of its occurrence cannot be made without an order of the Magistrate. Section 13(3) of the Act is just a constraint on the Registrar: It is not a provision whereby an aggrieved party could get an adjudication on his disputed date of birth. The order of the Magistrate binds only the Registrar and not others. The entry made by the Registrar, pursuant to an order of the Magistrate, cannot carry higher probative value and its proof must necessarily depend upon the facts and circumstances of each case.

3. Thus, viewed in the proper perspective, the impugned order of the learned Magistrate, which shall necessarily carry all the limitations that His Lordship pointed above, should not be seriously objected to merely because the learned Magistrate found only the statement on oath of the applicant, mother as sufficient to verify the correctness of the birth.

4. Petition dismissed.