
1964 *Present* : Abeyesundere, J., and G. P. A. Silva, J.

H. KARONCHIHAMY, Appellant, *and* REGISTRAR OF
BIRTHS and 2 others, Respondents

S. C. 83/1963—D. C. Colombo, 3881/X

*Births and Deaths Registration Ordinance—Registration of birth of illegitimate child—
Omission to state particulars relating to the father—Subsequent rectification of
births register—Permissibility.*

The father of an illegitimate child who was not at home to be the informant of the birth of the child when the birth was registered is entitled, in a subsequent application made by the mother under the Births and Deaths Registration Ordinance, to have the particulars relating to the paternity of the child entered in the births register. The fact that the father has legitimate children also cannot operate as a bar to such rectification.

APPEAL from an order of the District Court, Colombo.

N. Balakrishnan, for petitioner-appellant.

G. P. S. de Silva, Crown Counsel, for respondents.

February 3, 1964. ABEYESUNDERE, J.—

The petitioner in this case is the mother of Ananda Munidasa whose birth has been registered in the births register maintained by the Registrar of Births and Deaths of the Wellawatte Division in the Colombo District. According to the birth certificate in respect of Ananda Munidasa, he was born on 14th July, 1942, at premises No. 40/55, 67th Lane, Havelock Road, Wellawatte South, his mother is Hewadalugodage Karonchi Hamy,

who is the same as the petitioner in this case, his parents are unmarried, the informant of his birth is Gajaweera Aratchige Alice Nona who was an inmate of the premises at which he was born, and the particulars relating to his father are not entered.

An application under the Births and Deaths Registration Ordinance was made by the petitioner to the District Court of Colombo for an order to cause the particulars relating to the father of Ananda Munidasa to be entered in the births register. An inquiry was held by the learned District Judge into the application and the parents of Ananda Munidasa gave evidence at the inquiry. The learned District Judge refused the application and stated in his order that if the application were allowed the proprietary rights of the legal children of the person alleged to be the father of Ananda Munidasa would be affected and that there was nothing to indicate that the putative father of Ananda Munidasa acknowledged that he was the father at the time of the birth of Ananda Munidasa.

The petitioner has stated in her evidence that she is the mother and that Sandradura Deesin de Silva, who is the 3rd respondent in this case, is the father of Ananda Munidasa. Sandradura Deesin de Silva has admitted in his evidence that he is the father of Ananda Munidasa and has stated that he is married to another lady who is still alive, that he is not married to the petitioner, that he was not at home to give the Registrar of Births the information of the birth of Ananda Munidasa, and that he has no objection to the application of the petitioner being allowed. As it is stated in the registration of the birth of Ananda Munidasa that his parents are unmarried, there appears to be no reason why the proprietary rights of the legitimate children of Sandradura Deesin de Silva should be affected if the application of the petitioner is allowed. Sandradura Deesin de Silva has stated in his evidence that he was not at home to be the informant of the birth of Ananda Munidasa. He has therefore given a reasonable explanation of his failure to inform the Registrar of Births that he was the father of Ananda Munidasa. As both the petitioner and Sandradura Deesin de Silva have acknowledged in the District Court that they are the parents of Ananda Munidasa, I think the petitioner's application should have been allowed by the learned District Judge.

I set aside the order made by the learned District Judge and I order that in the registration of the birth of Ananda Munidasa there shall be entered in cage 4 "Sandradura Deesin de Silva" as the name and surname of father and there shall be entered in cage 6 "Government Clerk, Sinhalese" as the rank or profession and race of father.

G. P. A. SILVA, J.—I agree.

Order set aside.