

Present : Akbar J.

PERERA v. PERERA BALASURIYA.

1929

19—D. C. Colombo, 1583 (Special).

*Registration of births—Application for rectification—Insertion of the name of the father—Ordinance No. 1 of 1895, s. 22.*

An application for the rectification of the registration of the birth of a child by the insertion of the name of the father may be made to the District Court under section 22 of the Registration of Births and Deaths Ordinance, No. 1 of 1895.

**A**PPEAL from an order of the District Judge of Colombo.

*Weerasooria*, for petitioner, appellant.

April 25, 1929. AKBAR J.—

This was an application to the District Court under section 22 of the Births and Deaths Ordinance, No. 1 of 1895, whereby the applicant applied to the District Court to cause an entry in the births register to be rectified. The entry in question referred to the birth of the applicant's child on July 5, 1922. The father of this child is the first respondent, and the petitioner was unmarried at the time of the birth. On December 20 the first respondent and the petitioner married and the marriage was registered. This is an application to enter the name of the first respondent as the father of the child born on July 5, 1922.

The entries with regard to illegitimate children are regulated by section 18 of the same Ordinance. In such cases no name is to be entered as the father of the child, unless at the joint request of the mother and father, in which event the person acknowledging himself to be the father must sign the register himself. Under section 18 the name of the father may also be entered on orders of a competent Court.

The District Judge has refused the application because he was of the opinion that the reference to an order of a competent Court in section 18 meant an order of Court made under section 22. I think the District Judge has misunderstood section 22. Section 18 refers to the registration of births, whereas section 22 refers to the rectification of an entry of birth already registered. This was the effect of the decision the Supreme Court came to in the case of *Velon Cabaral v. White and others*.<sup>1</sup> In that case the petitioner

<sup>1</sup>(1905) 1 S. C. D. 53.

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applied to erase from the register of births an entry relating to a girl in which the petitioner's name was entered as that of the father of the girl. The Supreme Court held that the view of the District Judge that section 22 only applied to the alteration of an entry which had been entered by error or mistake was wrong. It was also pointed out that the proceedings under section 22 were summary and that recourse to them did not prevent the parties from "questioning the correctness of the entries in due course of law."

I would follow that case in this application and give the petitioner the right to have the entry rectified by the insertion of the name of the first respondent as the father of the child, if upon inquiry the District Judge is satisfied that he is the father. What better evidence can the Court expect than the admission of the first respondent himself? I see no reason why this application should not be allowed.

I would set aside the order of the District Judge, and send the case back for an inquiry under section 22 in the ordinary course.

*Set aside.*

