

W.P(MD)No.8267 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27.03.2026

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**W.P(MD)No.8267 of 2026
and
W.M.P(MD)No.6768 of 2026**

Durgadevi

... Petitioner

Vs.

1.Chief Registrar of Births and Deaths,
Department of Public Health and Preventive
Medicine,
359, Anna Salai, DMS Campus,
Teynampet,
Chennai-600006

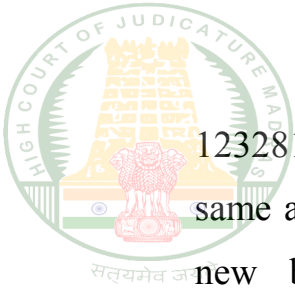
2.District Registrar of Births and Deaths,
District Revenue Officer,
Collectorate Campus,
Madurai-625 020

3.Executive Officer, (Registrar of
Births and Deaths)
Vadipatti Town Panchayat,
Ward No.11, 117/27,
NH Road,
Vadipatti Post,
Madurai-625 218

...Respondents

Writ Petitions are filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.

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12328115/Maa.Su.Pu. Mail/Iru.1/2025 dated 23.01.2026 and to quash the same as illegal, arbitrary and consequently directing the respondents to issue new birth certificate by effecting the names of Mr.Kumaravel and Mrs.K.Arumugam as father and mother respectively.

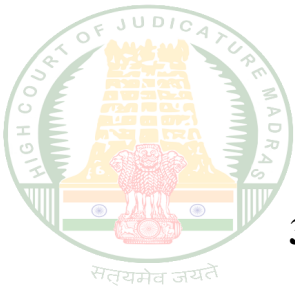
For Petitioner :Ms.K.Sinega

For Respondents :Mr.P.Thangadurai
Government Advocate

ORDER

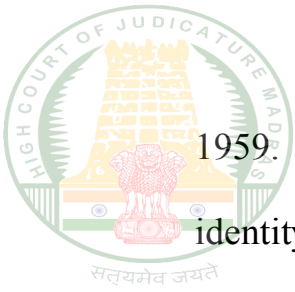
This writ petition is filed for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 23.01.2026, to quash the same, and consequently to direct the respondents to issue a birth certificate by including the names of Kumaravel and Arumugam as the father and mother of the petitioner, respectively, and for passing such further or other orders.

2. The case of the petitioner is that she was born on 16.11.2005 to Alagesan and Chitradevi. In 2006, her father died, and Chitradevi also deserted her, remaining unheard of for the last 20 years. While so, the petitioner is being brought up by her paternal uncle, Mr.Kumaravel, and his wife, Mrs.K.Arumugam. They raised her as their own daughter, providing proper care, protection and education, and the petitioner is presently pursuing a B.Sc. degree at a private college.



3. In view thereof, in all her identity-related documents, such as Aadhaar Card, Community Certificate, mark sheets, and transfer certificate, etc., her parents' names are mentioned only as Mr.Kumaravel and Mrs.Arumugam, and not the biological parents' names. However, in the birth certificate alone, the biological parents' names are mentioned. This affects the petitioner in two ways. Foremost, her right to be known as the daughter of Mr.Kumaravel and Mrs.Arumugam is affected. Secondly, a dichotomy is created with reference to her identity, as all her other documents and the birth certificate differ, leading to serious prejudice to her education and career as well. Therefore, she has made an application to include the names of Mr.Kumaravel and Mrs.Arumugam as her father and mother in the birth certificate. However, the same was rejected by the impugned order dated 23.01.2026. The impugned order states that the petitioner should be validly adopted as per the provisions of the Hindu Adoption and Maintenance Act, 1956, so as to include their names in the birth certificate as parents. Feeling aggrieved, the writ petition is filed.

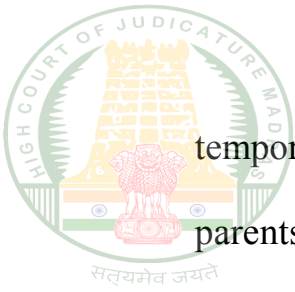
4. *Ms.K.Sinaga*, the learned counsel appearing for the petitioner, reiterating the above, would submit that the petitioner is entitled to the relief in view of Article 8 of the United Nations Convention on the Rights of the Child,



1959. It is further submitted that the petitioner has a right to control her identity. She would further submit that the specific prayer of the petitioner was not to remove the names of the biological parents, but to include the above names as well. The respondents erroneously rejected the request as if the petitioner were praying for the inclusion of the adoptive parents' names, that too, by replacing the biological parents.

5. Per contra, *Mr.P.Thangadurai*, the learned Government Advocate, would submit that the rules contemplate only the mentioning of the biological or adoptive parents' name. Therefore, the impugned order directs reapproaching the birth registering authority after due adoption, as per the Hindu Adoption and Maintenance Act, 1959.

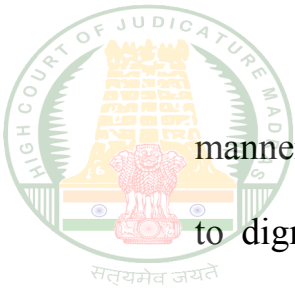
6. I have considered the rival submissions and perused the material records of the case. First, the peculiar facts of this case need to be noted. Immediately after the petitioner's birth in 2005, her father passed away in 2006, and her mother abandoned her and has remained unheard of to date. Section 56 of the present Juvenile Justice (Care and Protection of Children) Act, 2015, and Section 41(2) of the Juvenile Justice (Care and Protection of Children) Act, 2000, envisage adoption for such abandoned children. Foster care is also defined and envisaged under the Act. Foster care is considered



temporary, and there is no law declaring the legal parentage of the foster parents/foster family. Reference can be made to Section 44 of the Act of 2015.

On the contrary, as per Section 12 of the Hindu Adoption and Maintenance Act, 1959, the adoptive child becomes the child of the adoptive parents for all purposes, and all ties with the family of birth stand severed. Regulation No. 40 of the Adoption Regulations, 2022, framed by the Central Adoption Resource Authority, requires the issuance of a birth certificate that incorporates the names of the adoptive parents. Rule 5 of the Tamil Nadu Births and Deaths Registration Rules, 2000, also prescribes the form for incorporating the adoptive parents' names on the birth certificate.

7. In the present case, where there is no *de jure* adoption and no enabling provision, the question is whether the petitioner's prayer can be granted. It must be noted that as of date there is no biological family to which the petitioner can claim belonging. There is no claim by the biological mother, and she has been unheard of for the past 20 years. Thus, the positions of Mr.Kumaravel and Mrs.Arumugam in this case are uniquely higher than those of any other temporary foster family but below those of the adoptive parents. In every other document, their names appear as the petitioner's parents. In this regard, even in the absence of formal adoption, when the petitioner seeks to communicate to the world about the family she belongs to in a particular



manner, unless there is any prohibition or restriction in any other law, the right to dignity and identity, forming part of her Fundamental Right to Privacy, needs to be protected.

8. The Hon'ble Supreme Court of India, in **K.S.Puttaswamy vs. Union of India** [(2017) 10 SCC 1], in Paragraph 298, among other places, recognised that family is an integral part of individual dignity. Dignity and the right to construct one's own identity with reference to gender, familial and societal contexts is part of the right to privacy. The petitioner is not praying for the removal of the names of the biological parents. She is not praying for proprietary rights in the foster family. Notwithstanding that Mr.Kumaravel and Mrs.Arumugam are not accorded *de jure* parental status, she wants to be known as their daughter, and that is how she wants to construct her identity *vis-à-vis* society; the same would be within her fundamental right. By specifically mentioning their names, below the biological parents, by adding the suffix "Foster", no law is violated, and at the same time, her right to dignity and identity is established, and thus, I am of the view that she is entitled to the relief.

9. This is not merely her assertion of her fundamental right, but she has another problem. In due course of things, in all her other identity documents,



the names of the Foster Family are mentioned as Parents. Now, the birth certificate is different. Therefore, her identity itself will be disputed, and her education and career will be jeopardised. In this context, the learned counsel for the petitioner rightly placed reliance on Article 8 of the United Nations Convention on the Rights of the Child, 1959, and it reads as under :

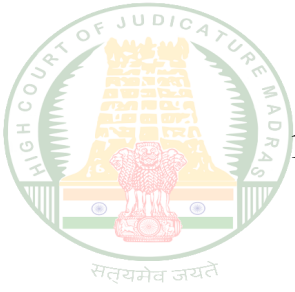
"Article 8: 1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law, without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, State Parties shall provide appropriate assistance and protection with a view to re-establishing speedily his or her identity."

10. Thus, there is not only an obligation on the State to respect the child's right to preserve her identity, but there is also an obligation to provide appropriate assistance. The Hon'ble Supreme Court in **K.S.Puttaswamy's case** (cited supra) mandated as follows:

"326. Privacy has both positive and negative content. The negative content restrains the State from committing an intrusion upon the life and personal liberty of a citizen. Its positive content imposes an obligation on the State to take all necessary measures to protect the privacy of the individual." (Emphasis supplied)

Thus, the respondents are liable to answer the prayer of the petitioner in the affirmative, as an extraordinary measure in the peculiar facts and circumstances of this case.



11. In the result, the Writ petition is allowed on the following terms:

(i) The impugned order dated 23.01.2026 bearing ref:

Na.Ka.No. 1238115/Maa. Su.Pu. Mail/Iru.1/2025 stands set aside, and the matter stands remanded to the file of the first respondent.

(ii) Within two weeks from the date of receipt of the web copy of this order, the petitioner shall also file notarised affidavits of the said Mr.Kumaravel and Mrs.Arumugam, consenting to their names being added to the birth certificate of the petitioner with the suffix (Foster) in the appropriate columns;

(iii) Upon filing such affidavits, the first respondent, without removing the names of the biological parents, shall also include the names of Mr.Kumaravel and Mrs.Arumugam in the appropriate columns for father and mother, with the suffix '(Foster)', in the Birth Certificate of the petitioner bearing Registration No. 813/2005, and issue the Birth Certificate to the petitioner within 8 weeks from the date of filing.

(iv) No Costs. Consequently, connected miscellaneous petition stands closed.

27.03.2026

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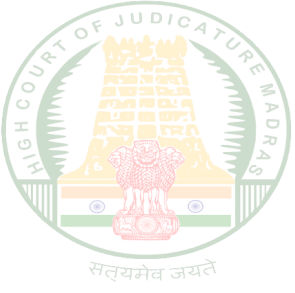
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D.BHARATHA CHAKRAVARTHY, J.

Ns / smn2

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