

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 184/2018

[2018] SCSC 1057

IN THE MATTER OF EX-PARTE: A.E

Heard: 19th November 2018

Counsel: Mr. France Bonte for the Petitioner

Delivered: 20th November 2018

ORDER

B. Adeline, Master

[1] This is an Application by Petition for an Order of this Court to have the birth of a child registered out of time. The application is made by virtue of Section 31 of the Civil Status Act, CAP 34 (hereinafter referred to as “the Act”), by one A.E (hereinafter called “ the Applicant”), the mother of the child whose birth is sought to be registered. Attached to the application is an affidavit in support sworn by the Applicant.

[2] The following averments are made in the application supported by the relevant documents;

- (i) that on the 10th September 2018, at 12:04, am the Applicant gave birth to a baby boy (hereinafter called “the minor”) at the Seychelles Hospital, Maternity Department.

- (ii) that the Applicant, a non-Seychellois (a Cameroonian) who happened to be in Seychelles on a visitors' permit carrying her unborn child for 34 weeks was admitted at the Seychelles hospital on the 9th September 2018.
- (iii) that the Maternity Department would not release the minor's birth identification (the attestation document) until payment of the sum of SR 19, 060 was made
- (iv) that same was released on the 9th November 2018, and on the 10th November 2018, the 30 days allowable limit for the declaration and registration of the minor's birth had expired.
- (v) It is further averred in the affidavit in support of the application that up till now the birth of the minor has not been declared and registered at the Office of the Civil Status.

[3] Therefore, by her application, the Applicant seeks for an Order of this Court directing the Chief Officer of the Civil Status to register the birth of the minor.

[4] The birth notification issued by the Seychelles Hospital, Maternity Department dated 12th September 2018, produced as exhibit to the affidavit evidence, certifies that on the "10th September 2018, at 12:04 am, in this hospital, the Applicant Atude Eunice delivered a live male infant".

[5] Section 31 of the Act reads as follows;

- (1) The declaration of the birth of any child shall be made at any time within the thirty days following the day of its birth before the Officer of the district where the child is born. It shall not be necessary to present the child when its birth is declared, and all acts of birth drawn up before the passing of this Act are hereby declared to be valid whether the child has been presented to the officer of the Civil Status or not.

- (2) If the birth has not been declared within the aforesaid period, the birth shall not be registered, except upon an order of a Judge and on payment of a fine not exceeding one hundred rupees unless the lateness of the declaration be accounted for to the satisfaction of the Judge. The Judge shall be entitled to require such evidence as he may deem necessary to satisfy himself touching the exact date of the birth of the person whose birth is sought to be registered.

[6] On account of the facts and circumstances as laid in evidence before this Court that made the declaration of the birth of the minor within the prescriptive statutory period of thirty days following the day of the birth of the minor impossible, the application is therefore granted. Accordingly I make the following order;

(1) I make no order for the payment of a fine under Section 31 (2) of the Act, for the reasons that the lateness to declare the birth of the minor has been fully accounted for by the Applicant to my satisfaction, and

(2) that the Chief Officer of Civil Status shall register the birth of a male child whom the Applicant, Atude Eunice gave birth to on the 10th September, 2018 at 12:04 am, at the Seychelles Hospital.

Signed, dated and delivered at Ile du Port on 20th November 2018.

B. Adeline
Master of the Supreme Court