

1944 *Present: Moseley S.P.J. and Wijeyewardene J.*

PERERA, Appellant, and PERERA *et al.*, Respondents.

41—D.C. Colombo, No. 93/X.

Registration of Birth—Rectification of entry—Births and Deaths Registration Ordinance, s. 20.

A person may apply under section 20 of the Births and Deaths Registration Ordinance to have his birth register rectified by the entry of his name, in a case where his birth has been registered without a name.

In re de Silva (41 N. L. R. 440) followed.

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

No appearance for the appellant.

R. R. Crosette-Thambiah, C.C., for the Attorney-General on notice.

Cur. adv. vult.

May 22, 1944. MOSELEY J.—

The petitioner applied to the District Court, Colombo, under section 20 of the Births and Deaths Registration Ordinance to rectify the entry in the petitioner's Certificate of Birth by deleting the words "not named yet" and by substituting therefor the words "Pandigamage Piyasena Perera". The evidence is that at the date of registration the petitioner had not been given him name. Subsequently he was called Piyasena and he and his father say that they wish the name above mentioned to be inserted in the certificate.

The learned District Judge appears at the outset to have directed his mind to section 19 of the Ordinance which confers upon the Registrar-General and his officers powers to rectify an entry in the case of a child who has not been named at the date of registration of birth. In view of this "special jurisdiction", as he termed it, he held that the petitioner, by applying to the District Court, had invoked the aid of the wrong authority. It will, however, be noticed that section 19 permits the Registrar-General to take the steps therein provided on the application of the parent or guardian of the child. Neither parent nor guardian is the applicant in this case, and it seems to me that the application was properly made to the District Court under section 20.

Only one other point arises. The entry "not named yet" was correct at the time at which it was made. Can it then be "rectified"? This point was fully dealt with in *In re de Silva*¹ by Soertsz J. who held that rectification of an entry may be made where it is shown that the entry is wrong in relation to the facts existing at the date of the application. With that view I respectfully agree.

I would, therefore, allow the appeal and direct the District Judge, in compliance with the provisions of section 20, to direct the Registrar-General and the Registrar who made the entry to rectify the entry as prayed in the petition.

WIJEYWARDENE J.—I agree.

Appeal allowed.

¹ 41 N. L. R. 440.