

GAHC010185252024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/342/2024

JHELUM PAUL
SON OF LATE SUKANTA KUMAR PAUL,
RESIDENT OF SATRIBARI,
K.C. ROAD, GUWAHATI- 781008,
DISTRICT- KAMRUP(M), ASSAM.

VERSUS

APARAJITA DAS
D/O- LATE MAHENDRA CHANDRA DAS,
RESIDENT OF SINGRIMARI, KALAIGAON,
P.O. AND P.S.- KALAIGAON,
DISTRICT- UDALGURI(BTR), ASSAM.
PIN- 784525.

Advocate for the Petitioner : MR. A PAUL, MR. A PAUL,MS. M M KALITA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.09.2024

Heard Mr. A. Paul, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, read with Section 151 of the CPC, the petitioner has challenged the correctness or

otherwise of the order dated 08.08.2024, passed by the learned District Judge, Darrang, Mangaldai, in Petition No. 555/2023, in Title Suit (D) No. 29/2013.

3. It is to be noted here that vide impugned order, dated 08.08.2024, the learned District Judge, Darrang, Mangaldai has dismissed the petition filed by the petitioner on 21.07.2023, for allowing him to adduce the certified copy of the marriage certificate No. 1485, dated 29.11.2011 and the RTI reply, dated 15.05.2023, given by the Senior Sub-Registrar, Kamrup(M), Guwahati, as secondary evidence in the instant case.

4. Mr. Paul, learned counsel for the petitioner submits that the petitioner has instituted Title Suit (D) No. 29/2013, before the learned District Judge, Darrang, Mangaldai for dissolution of marriage between him and the respondent on the ground of nullity of marriage, which was registered on 29.11.2011, vide marriage certificate No. 1485, registered in the office of the Sub-Registrar, Kamrup(M), Guwahati. Mr. Paul further submits that the original marriage certificate No. 1485 is in custody of the respondent since registration of the marriage and that the marriage certificate is required to be filed before the learned trial Court for proper adjudication of the dispute between the parties, but the learned trial Court, vide impugned order dated 08.08.2024, has dismissed the petition on the ground that the petitioner ought to have been diligent in pursuing his case. Mr. Paul submits that the case of the petitioner is primarily based on the marriage certificate and as such, the marriage certificate is a vital piece of document and unless the petitioner is allowed to file the same as secondary evidence, he will be seriously prejudiced.

5. Having heard the learned counsel for the petitioner, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 08.08.2024.

6. It appears that the learned trial Court has dismissed the Petition No. 555/2023, on the ground that the petitioner ought to have been diligent in pursuing his case and the petition is not maintainable and thereafter, rejected the same. It also appears that the stand taken by the petitioner in the said suit is that the marriage between him and the respondent is in nullity and the said marriage was registered on 29.11.2011, vide marriage certificate No. 1485, registered in the office of the Sub-Registrar, Kamrup(M), Guwahati, and it is the stand of the petitioner that since registration of the marriage, the original marriage certificate is with the respondent, and in order to adjudicate the dispute between the parties, filing of the aforesaid certificate is required. Since the case of the petitioner is based on the marriage certificate, the same is a vital document and declining to allow him to file the same would cause prejudice to him as he would be deprived of in establishing his case.

7. Having considered above and also considering the submission of the learned counsel for the petitioner as well as the facts and circumstances on the record, this Court is inclined to allow this petition.

8. Accordingly, it is provided that the learned trial Court shall allow the petitioner to file the certified copy of the marriage certificate No. 1485, dated 29.11.2011, along with RTI reply dated 15.05.2023, and thereafter, proceed to hear and dispose of the suit in accordance with law.

9. In terms of above, this revision stands disposed of at the motion stage itself.

JUDGE

Comparing Assistant