

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7345 of 2015 (P)

PETITIONER(S):

**NIRUPAMA JAYAPRAKASH, AGED 28 YEARS
DAUGHTER OF MR. P.JAYAPRAKASH, ' REVATHI'
SOUTH JANATHA ROAD, PALARIVATTOM
ERNAKULAM DISTRICT, KOCHI 682025.**

**BY ADVS.SRI.V.V.SIDHARTHAN (SR.)
SRI.D.G.VIPIN
SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT
TAXES (REGISTRATION) DEPARTMENT
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695001.**
- 2. INSPECTOR GENERAL OF REGISTRATION
VACHIYOOR PO, THIRUVANANTHAPURAM 695035.**
- 3. THE MARRIAGE OFFICER & SUB REGISTRAR
REGISTRATION DEPARTMENT
THRIPUNITHURA SUB REGISTRY OFFICE
THRIPUNITHURA 6820301.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE BIRTH CERTIFICATE DATED 10.03.1987 ISSUED BY THE CORPORATION OF KOCHI**
- P2: TRUE COPY OF THE RATION CARD DATED 24.12.2008 ISSUED BY THE CITY RATIONING OFFICER, ERNAKULAM**
- P3: TRUE COPY OF THE PASSPORT NO. H 9114399 DATED 26.06.2010 ISSUED BY THE REGIONAL PASSPORT OFFICER, KOCHI**
- P4: TRUE COPY OF THE DRIVING LICENSE NO. 7/8695/2014 DATED 29.09.2014**
- P5: TRUE COPY OF THE CERTIFICATE OF NO IMPELIMENT TO MARRIAGE ISSUED BY THE DEPUTY SUPERINTENDANT REGISTRAR OF THE DISTRICT OF HAVERING DATED 16.02.2015**
- P6: TRUE COPY OF THE STATORY DECLARATION EXECUTED BY MR. GRANT LESLIE CARRUTHERS DECLARING THAT HE IS SINGLE AND FREE OF ANY BOND OF MARRIAGE AND CAN LAWFULLY ENTER INTO THE MARRIAGE WITH THE PETITIONER AND THE CERTIFICATE OF APOSTILLE ISSUED BY THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**
- P7: TRUE COPY OF PASSPORT NO. GBR 509522953 DATED 2ND APRIL, 2012 ISSUED BY UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN THE NAME OF MR. GRANT LESLIE CARRUTHERS**
- P8: TRUE COPY OF THE DRIVING LICENCE DATED 04.06.2013 ISSUED TO THE MR. GRANT LESLIE CARRUTHERS**
- P9: TRUE COPY OF THE NOTICE OF INTENDENT MARRIAGE DATED 05.03.2015 SUBMITTED TO THE 3RD RESPONDENT**
- P10: TRUE COPY OF THE CIRULAR NO. RR 325537/00 DATED 08.08.2014 ISSUED BY THE 2ND RESPONDENT**
- P11: TRUE COPY OF THE JUDGMENT DATED 29.08.2014 IN WPC. 22261/2014 OF THE HONOURABLE HIGH COURT OF KERALA**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 7345 of 2015

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Dated, this the 9th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- (a) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 3rd respondent to accept Exhibit P9 notice on file, reckoning the notice of marriage as 5.3.2015 and solemnize the marriage of the petitioner Mr. Grant Leslie Carruthers within a short time to be stipulated by this Honourable Court.
- (b) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to the issuance of Exhibit P10 and quash Exhibit P10.
- (c) To grant any other appropriate writ, order or direction which this Honourable Court may deem fit to grant in the facts and circumstances of the case.

2. The learned counsel for the petitioner submits that the petitioner with intent to marry Mr. Grant Leslie Carruthers, a British citizen, though has sought to give a notice of intended marriage under Section 5 of the Special Marriage Act, 1954 on 05.03.2015 vide Ext. P9, the same was refused to be accepted by the 3rd respondent,

referring to Ext. P10 Circular dated 08.08.2014. It is pointed out that both the petitioner and the groom satisfy all the mandates prescribed under provisions of the Special Marriage Act and as such, notice submitted by the petitioner ought to have been accepted by the respondents. The learned counsel for the petitioner submits that as per the law declared by this Court in **Rajeev Vs. State of Kerala [2001 (1) KLT 578]**, even if one of the parties is not an Indian citizen, the marriage can be solemnized under the Special Marriage Act. The petitioner has also produced Ext. P11 judgment passed by this Court under similar circumstances.

3. Heard the learned Government Pleader as well.

4. After hearing both the sides and in view of the decision cited supra, this Court finds that, there cannot be any prohibition for solemnization of marriage under the Special Marriage Act. But the parties have to comply with the mandatory requirements provided under Sections 5 and 6 (3) of the Act. The petitioner has already submitted Ext. P9 notice under Section 5 of the Act. Ext.P5 is the certificate of no impediment to marriage issued by the Superintendent Registrar of the District of Havering dated 16.02.2015.

In the said circumstances, the writ petition is disposed of directing the 3rd respondent to accept Ext. P9 notice of intended marriage and take appropriate steps to solemnize the marriage of the petitioner with Mr. Grant Leslie Carruthers in accordance with law reckoning the notice of marriage on 05.03.2015.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the third respondent for further steps.

The writ petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd