

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12190 of 2015 (W)

PETITIONER(S):

**PADMAKUMAR. P., AGED 30 YEARS,
S/O.PRABHAKARAN NAIR, RESIDING AT AYYANGARUVILA,
JANARDHANAPURAM, VARKALA P.O.,
THIRUVANANTHAPURAM-695 141.**

**BY ADVS.SRI.S.SUNIL MAURYN,
SRI.B.SAJEEV KUMAR (VARKALA).**

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF TAXES (REGISTRATION),
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. INSPECTOR GENERAL OF REGISTRATION,
O/O. THE INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR P.O., THIRUVANANTHAPURAM-695 001.**
- 3. THE MARRIAGE OFFICER AND SUB REGISTRAR,
VARKALA SUB REGISTRY, VARKALA P.O.,
THIRUVANANTHAPURAM-695 141.**

BY SR. GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE RELEVANT PAGES OF THE PETITIONER'S INDIAN PASSPORT NO.M1357231.
- EXT.P2 COPY OF THE RELEVANT PAGES OF TINA WITTMANN'S EUROPAISCHE UNION PASSPORT NO.CF4HW6HGN.
- EXT.P3 COPY OF THE NOTICE OF INTENDED MARRIAGE DATED 25/03/2015.
- EXT.P4 COPY OF THE BIRTH CERTIFICATE OF MISS.TINA WITTMANN.
- EXT.P5 COPY OF THE CONFIRMATION OF SINGLE STATUS OF MISS.TINA WITTMANN ISSUED BY THE MUNICIPALITY OF STAMMHAM, STAMMHAM CIVIL REGISTRY OFFICE, DISTRICT OF EICHSTATT, GERMANY.
- EXT.P5A ENGLISH TRANSLATION OF EXT.P5.
- EXT.P6 COPY OF THE CERTIFICATE OF RESIDENCE OF MISS.TINA WITTMANN.
- EXT.P6A ENGLISH TRANSLATION OF EXT.P6.
- EXT.P7 COPY OF THE TINA WITTMANN'S IDENTITY CARD NO.814005733 ISSUED BY THE FEDERAL REPUBLIC OF GERMANY.
- EXT.P8 COPY OF THE OBJECTION VIDE NO.71/2015 DATED 25/03/2015 ISSUED BY THE 3RD RESPONDENT.
- EXT.P9 COPY OF THE CIRCULAR NO.RR3-25537/2000 DATED 08/08/2014 ISSUED BY THE 2ND RESPONDENT.
- EXT.P10 COPY OF THE SPECIAL MARRIAGE (KERALA AMENDMENT) BILL, 2012.
- EXT.P11 COPY OF THE AFFIDAVIT SWORN BY MR.JOHANN WITTMANN, FATHER OF MISS TINA WITTMANN.
- EXT.P11A COPY OF THE AFFIDAVIT SWORN BY ANNA ELISABETH WITTMANN, MOTHER OF MISS TINA WITTMANN.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 12190 of 2015

Dated this the 10th day of April, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers :

“(a) To issue a writ of certiorari quashing Exhibit P8 and P9;

(b) To issue a writ of mandamus or any other writ order or direction directing the 3rd respondent to accept Ext-P3 notice of the intended marriage between the petitioner and Miss.Tina Wittmann and register the same in accordance with the provisions of the Special Marriage Act, 1954;

(c) To issue such other appropriate writ order or directions as deemed necessary in the nature of this case including the costs of the petitioner in these proceedings.”

2. The learned counsel for the petitioner submits that the petitioner with intent to marry Miss.Tina Wittmann, a German citizen, though has sought to give a notice of intended marriage under Section 5 of the Special Marriage Act, 1954 on 25.03.2015 vide Ext. P3, the same was refused to be accepted by the 3rd respondent/the Marriage Officer and Sub Registrar, referring to

Ext. P9 Circular dated 08.08.2014. It is pointed out that both the petitioner and the groom satisfy all the mandates prescribed under the Special Marriage Act and as such, notice submitted by the petitioner ought to have been accepted by the third respondent. 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.

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 said Act. The petitioner has already submitted Ext. P3 notice under Section 5 of the Act. Ext.P5 is the 'single status' certificate issued of the authorities in Germany, in respect of the Miss.Tina Wittmann.

5. In the said circumstances, the writ petition is disposed of directing the 3rd respondent to accept Ext.P3 notice of intended

marriage and take appropriate steps to solemnize the marriage of the petitioner with Miss.Tina Wittmann in accordance with law reckoning the notice of marriage on 25.03.2015.

6. 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.

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