

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 8TH DAY OF MAY 2015/18TH VAISAKHA, 1937

WP(C).No. 13945 of 2015 (P)

PETITIONER :

**MARIAMMA KOLETTU DEVASIA, AGED 52 YEARS,
D/O.DEVASIA, KOLETTU HOUSE, THRICKODITHANAM P.O.,
KILIMALA, CHANGANASSERY, KOTTAYAM.**

BY ADV. SRI.P.S.PRADEEP

RESPONDENT(S):

- 1. THE MARRIAGE REGISTRAR,
OFFICE OF THE SUB REGISTRAR, CHANGANASSERY,
KOTTAYAM DISTRICT, PIN-686 102.**
- 2. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**

BY GOVERNMENT PLEADER SRI.P.FAZIL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE ORDER IN OP.(DIV.)182/2005 DATED 23.12.2005 PASSED BY FAMILY COURT, THODUPUZHA.
- EXT.P2 - TRUE COPY OF THE FRONT PAGE OF THE SSLC BOOK OF MR.MATHEW JOSEPH, VARIAMATTOM.
- EXT.P3 - TRUE COPY OF RELEVANT PAGES OF PASSPORT OF MR.MATHEW JOSEPH, VARIAMATTOM.
- EXT.P4 - TRUE COPY OF FINAL JUDGMENT DISSOLUTION OF MARRIAGE IN CASE NO.FMCE 14-005348(44)(91) PASSED BY THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA DATED 15.09.2014
- EXT.P5 - TRUE COPY OF THE NOTICE OF INTENDED MARRIAGE DATED 27.04.2015 SUBMITTED BY THE PETITIONER AND HER WOULD-BE HUSBAND BEFORE 1ST RESPONDENT.
- EXT.P6 - TRUE COPY OF RELEVANT PAGES OF PASSPORT OF THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.13945 of 2015
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Dated this the 08th day of May, 2015

JUDGMENT

Petitioner is an Indian national. Petitioner wants to marry a US national. Petitioner given a notice of marriage. That is being accepted. There is no impediment under the Special Marriage Act to solemnize the marriage if one of the parties to the marriage is a foreign national. However, for want of appointment of Special Marriage Officer in the country to which foreign national belong, petitioner and her would-be husband directly filled up a notice of intended marriage under Sec.5 of the Special Marriage Act, 1954 before the Marriage Registrar. Marriage Registrar rejected the notice stating that since one of the parties to the marriage being a foreign citizen, the marriage could not be proceeded under in terms of Sec.5.

2. This Court in several judgments in similar cases held that if the petitioner is able to produce credible documents to show that foreign national is single and there is no impediment in marrying, that can be relied upon for solemnizing marriage under the Special Marriage Act. Therefore, petitioner shall produce credible documents before the first respondent. Based

on that, petitioner's marriage shall be solemnized based on the original notice of marriage given by the petitioner.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/11/05/15