

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 18598 of 2015 (Y)

PETITIONER(S):

**PAUL SKARIA, AGED 33 YEARS,
S/O.K.P.SKARIA, KUZHIYANJAL HOUSE, H.NO.29/45,
THEKKUMBHAGOM, TRIPUNITHURA,
ERNAKULAM DISTRICT-682031.**

**BY ADVS.SRI.C.M.KAMMAPPU
SRI.MANSOOR.B.H.**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM,
THIRUVANANTHAPURAM-695001.**
- 2. INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM-695035.**
- 3. THE MARRIAGE OFFICER/SUB REGISTRAR,
TRIPUNITHURA SUB REGISTRY, TRIPUNITHURA,
ERNAKULAM DISTRICT-682315.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 18598/2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- A COPY OF THE NOTICE OF INTENDED MARRIAGE

**EXHIBIT-P2- TRUE COPY OF THE CERTIFICATE DATED 19/5/15 ISSUED BY THE
MAIN DIRECTORATE OF CIVIL REGISTRY OFFICE, MOSCOW**

**EXHIBIT-P3- TRUE COPY OF THE JUDGMENT DATED 18/9/14 IN WPC.24086/14 IN
WPC.24086/14.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 18598 of 2015 (Y)

Dated this the 22nd day of June, 2015

J U D G M E N T

The petitioner, an Indian citizen, desires to enter into a marriage with one Irina Antonova, who is a Russian National. The petitioner, residing under the jurisdiction of the 3rd respondent, made an application for contracting the said marriage under the Special Marriage Act, 1954. An objection was raised by the 3rd respondent, allegedly on the ground that the marriage is intended to be entered into with a Russian National and, hence, the provisions of the Special Marriage Act cannot be invoked.

2. In fact, the said issue was already considered by this Court in **Rajeev v. State of Kerala [2001 (1) KLT 578]**, which relied on a decision of High Court of Himachal Pradesh in **Marian Eva v. State of Himachal Pradesh [AIR 1993 Himachal Pradesh 7]**. The Court categorically

found that the Special Marriage Act does not contain any prohibition for solemnisation of the marriage, if one of the parties is a foreigner. Another learned Single Judge of this Court also found to the same effect in Exhibit P3 judgment.

3. A reading of the provisions of the Special Marriage Act would also indicate that, Section 4 contemplates a marriage between “any two persons” could be solemnized under the Act; if the conditions specified therein are fulfilled. To satisfy the officer of the conditions stated therein, the intending bridegroom has also given Exhibit P2. Exhibit P1 is the notice of intended marriage under Sec.5 of Special Marriage Act. Exhibit P2 is the Certificate of Absence of Marriage issued by the Main Directorate of Civil Registry Office, Moscow to the bride-to-be to prove the marital status.

4. The learned Government Pleader contends that there is no Marriage Officer appointed by the Government of India in the Embassy of India at Russia and there is no provision for sending a communication as required under sub-section (3) of Section 6 of the Act.

5. Sub-section (3) of Section 6 requires only that when either of the parties to an intended marriage is not permanently residing within the local limits of the Marriage Officer, then the Marriage Officer of the district in which either of the parties have their residence should be informed of the marriage.

6. In the present case, the petitioner, a citizen of India, is a resident within the jurisdiction of the 3rd respondent. The Russian National, who he intends to marry, is not having permanent residence in India and even if a Marriage Officer is appointed by the Government of India in

its Embassy at Russia, there would be no requirement of informing such Marriage Officer, since the intending bride-to-be is a Russian National. In such circumstance, the application of the petitioner shall be accepted and notice shall be given by the 3rd respondent as required under the Act and the petitioner is permitted to contract the marriage as intended by him, which shall be registered under the Act.

The writ petition is allowed.

Sd/-
K.VINOD CHANDRAN,
JUDGE