

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 19511 of 2015 (L)

PETITIONER :

KRISHNAPRASAD
S/O.BALAKRISHNAN, AGED 28 YEARS
KARIMBANAKKAL HOUSE, MELATTOOR
MALAPPURAM DISTRICT.

BY ADVS.SRI.GEORGE SEBASTIAN
SRI.R.SYLESHWAREN NAIR

RESPONDENT(S) :

1. THE SUB REGISTRAR
(MARRIAGE OFFICER UNDER THE SPECIAL MARRIAGE ACT)
SUB REGISTRAR'S OFFICE, MELATTOOR
MALAPPURAM DISTRICT-676 505.
2. THE INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM, PIN: 695 035.
3. THE STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF TAXES, SECRETARIAT, THIRUVANANTHAPURAM
PIN: 695 001.

R1 TO R3 BY GOVT. PLEADER SMT. C.K. SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

...2/-

WP(C).No. 19511 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: A TRUE COPY OF THE NOTICE DATED 24/6/2015 SUBMITTED BY THE
 PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXT. P2: A TRUE COPY OF THE ORDER DATED 24/6/2015 PASSED BY THE FIRST
 RESPONDENT.**
- EXT. P3: A TRUE COPY OF THE OFFICIAL TRANSLATION OF THE ORDER OF
 DIVORCE DATED 28/5/2015 GRANTED BY THE COMPETENT COURT IN
 BULGARIA ALONG WITH THE CERTIFICATE OF TRANSLATION.**
- EXT. P4: A TRUE COPY OF THE JUDGMENT DATED 5/6/2015 IN WP(C)
 NO. 16893/2015**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No. 19511 of 2015

Dated this the 29th 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 Stefka Pavlova, who is a Bulgarian national. The petitioner, residing under the jurisdiction of the 1st respondent, made an application for contracting the said marriage under the Special Marriage Act, 1954. An objection was raised by the 1st respondent, allegedly on the ground that the marriage is intended to be entered into with a foreign citizen 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 the 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.

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 bride has also given Ext.P3 divorce order dated 28.05.2015 granted by the competent court in Bulgaria

4. It is also relevant that, by Circular No.R.R.3-25537/00 dated 8.8.2014, the Government had answered a clarification made by the Inspector General of Registration and specifically indicated after citing the aforesaid decisions that the word “person” used in Section 4 of the Special Marriage Act does not indicate either one of the parties or both the parties should be citizens of India.

5. In the present case, the petitioner, a citizen of India, is a resident within the jurisdiction of the 1st respondent. The Bulgarian citizen, 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 Bulgaria, there would be no requirement of informing such Marriage Officer, since the intending bride is a Bulgarian citizen. In

such circumstance, the application of the petitioner shall be accepted and notice shall be given by the 1st respondent as required under the Act and the petitioner permitted to contract the marriage as intended by her, which shall be solemnised under the Act.

The writ petition is allowed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge