

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 20192 of 2015 (Y)

PETITIONER :

**VARGHESE HYGIN@ HYGIN P.A.,
S/O.ANTONY, AGED 42 YEARS,
PLAMOOTTIL HOUSE, TRIPUNITHURA,
ERNAKULAM.**

**BY ADVS.SRI.THOMAS T.VARGHESE
SRI.N.SASI
SMT.T.M.BINITHA**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF TAXES AND REGISTRATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE INSPECTOR GENERAL OF REGISTRATION,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM-695 035.**
- 3. THE MARRIAGE OFFICER AND SUB REGISTRAR,
TRIPUNITHURA, ERNAKULAM-682 124**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 20192 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF THE DRIVING LICENSE NUMBER 43/2688/19956.**
- P2 : TRUE COPY OF THE CIRCULAR ISSUED BY THE 2ND RESPONDENT DATED 21-10-2014.**
- P3 : TRUE COPY OF THE JUDGMENT DATED 11-3-2015 IN WP.NO.1946/15.**
- P4 : TRUE COPY OF THE JUDGMENT IS REPORTED IN 2001(1)KLT 578.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

W.P.(C) No. 20192 of 2015 (Y)

Dated this the 6th day of July, 2015

J U D G M E N T

The petitioner, an Indian citizen, desires to enter into a marriage with one Sivalamma Moosarikunnel Kesavan, who is a citizen of United Kingdom. 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 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. Another learned Single Judge of this Court also found to the same effect in Ext.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.

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 3rd

respondent. A citizen of United Kingdom, 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 United Kingdom, there would be no requirement of informing such Marriage Officer, since the intending bride-to-be is a citizen of United Kingdom. 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 permitted to contract the marriage as intended by him, which shall be solemnised under the Act.

The writ petition is allowed.

Sd/-
K.VINOD CHANDRAN,
JUDGE