

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 21526 of 2015 (M)

PETITIONER :

**STEPHY GEORGE, AGED 25 YEARS,
D/O. GEORGE P.J. PALAKKAPPILLY HOUSE,
NENMANKKARA P.O., PUDUKAD, TRICHUR DISTRICT PIN-680301.**

BY ADV. SRI.JACOB E SIMON

RESPONDENTS :

- 1. THE SUB REGISTRAR/MARRIAGE OFFICER,
SUB REGISTRAR OFFICE, NELLAYI, TRICHUR DISTRICT - 680301.**
- 2. INSPECTOR GENERAL OF REGISTRATION, VANCHIYOOR,
THIRUVANANTHAPURAM PIN - 695035.**
- 3. THE STATE OF KERALA, REPRESENTED BY PRINCIPAL
SECRETARY TO GOVERNMENT, TAX (REGISTRATION)
DEPARTMENT SECRETARIAT, THIRUVANANTHAPURAM PIN - 695001.**

R1 TO R3 BY SENIOR GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE RELEVANT PORTION OF THE PASSPORT OF THE DE TROY ROBIN.
- P2: NOTICE OF MARRIAGE SUBMITTED BEFORE THE FIRST RESPONDENT AS PER THE PROVISIONS OF SECTION 5 OF THE SPECIAL MARRIAGE ACT - 1954.
- P3: COPY OF THE POSTAL RECEIPT ALONG WITH THE ACKNOWLEDGMENT CARD.
- P4: COPY OF THE CERTIFICATE ISSUED BY THE REGISTRAR OF BIRTH, MARRIAGES & DEATH F OUD-HEVERLEE OF BELGIUM DT. 10TH JUNE 2015, ALONG WITH ENGLISH TRANSLATION.
- P5: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WPC 16893/2015 DT 5/6/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.21526 of 2015 - M

=====

Dated this the 16th 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 De Troy Robin, who is a Belgium citizen. 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. Another learned Single Judge of this Court also found to the same effect in Ext.P6 judgment in W.P.(C) No. 16893 of 2015.

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 Ext.P4 Certificate dated 10.06.2015 issued by the Registrar of birth, marriages & death of Oud-Heverlee of Belgium, wherein it is stated that after an extensive and diligent search of all records available, and based on the information provided, no record of such person can be found, with respect to 'marriage'.

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 Belgium citizen, who she 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 Belgium, there would be no requirement of informing such Marriage Officer, since the intending bridegroom is a Belgium citizen. In such circumstance, the application of the petitioner shall be accepted and notice shall be given by the 1st respondent as

W.P.(C) No.21526 of 2015 - M

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**

SB

// true copy //

P.A to Judge.