

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

W.P.(C).No.22086 of 2015 (I)

PETITIONER(S):-

AKHILA BASHEER, AGED 23 YEARS, D/O BASHEER,
KARIKUZHIYIL, MUDAVOOR P.O.,
MUVATTUPUZHA, ERNAKULAM.

BY ADV. SRI.S.MOHAMMED AL RAFI.

RESPONDENT(S):-

1. THE REGIONAL PASSPORT OFFICER,
ERNAKULAM-682036.

2. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EXTERNAL AFFIARS, NEW DELHI-110 001.

* Addl.3. MUHAMMED ASHAR, S/O.ABDUL AZIZ,
PUTHEN VEEDU, THALAYOLAPARAMBU,
KOTTAYAM - 686 605.

* ADDITIONAL 3RD RESPONDENT IS IMPEADED AS PER ORDER
DATED 24.07.2015 IN IA 10616/15.

R1&R2 BY ASSISTANT SOLICITOR GENERAL OF INDIA SRI.N.NAGARESH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE RELEVANT PAGE OF THE PASSPORT ISSUED TO THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE TALAQ NOTICE DATED 30.11.14 ISSUED BY THE MUHAMMED ASHAR.

EXHIBIT P2(a): TRUE COPY OF THE DIVORCE AGREEMENT DATED 30.11.2014 EXECUTED BY THE PETITIONER AND DIVORCED HUSBAND.

EXHIBIT P3: TRUE COPY OF THE CERTIFICATE DATED 10.6.2015 ISSUED BY PEZHAKKAPPILLY MUSLIM JAMA-ATH COUNCIL.

EXHIBIT P4: TRUE COPY OF THE CERTIFICATE DATED 10.6.15 ISSUED BY PEZHAKKAPPILLY MUSLIM JAMA-ATH COUNCIL.

EXHIBIT P5: TRUE COPY OF THE ONLINE APPOINTMENT RECEIPT ISSUED BY THE IST RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.22086 of 2015-I

Dated this the 20th day of August, 2015

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner's application for change of spouse name is not considered by the official respondents.

2. The petitioner was originally married to the additional 3rd respondent, who is impleaded herein. Notice was taken out on the additional 3rd respondent. Despite service, none appeared. The petitioner's specific case is that the petitioner had divorced herself from the additional 3rd respondent by Talaq; notice of which is produced as Exhibit P2. The petitioner is said to have entered into a marriage with one Anes Panachikkal Kunjumuhammed on 07.06.2015.

3. Going by the binding precedent of this Court in ***Shemi P.Ali v. State of Kerala [2009 (3) KLT 167]***, a divorce obtained by Talaq is legally accepted mode as per the personal law of the petitioner and there can be no defect found on the same. However, the respondent-authority would specifically

contend that no spouse name can be entered on the basis of the certificate produced by the petitioner, which is only a certificate from a mosque and not a valid document recognised under law. In such circumstances, if the petitioner produces a valid document to prove registration of the marriage, then necessarily the application shall be considered *dehors* the same being a second marriage, since, admittedly, the petitioner divorced herself from the additional 3rd respondent.

The writ petition is disposed of as above.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]