

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 22366 of 2015 (U)

PETITIONER(S) :

- 1. ANIMON SUNDARAM, AGED 34 YEARS,
TC NO.17/1076, CHERUKARA LANE, POOJAPURA,
THIRUVANANTHAPURAM.**
- 2. MURIEL ROSHAN RAJ,
JESSYRIA, MISSION COMPOUND, CHOVVA P.O.,
ELAYAVOOR, KANNUR.**

BY ADV. SRI.PRAVEEN VYASAN

RESPONDENT(S) :

- 1. THE MARRIAGE OFFICER (SUB REGISTRAR),
KANNUR, KANNUR DISTRICT-670 009.**
- 2. THE INSPECTOR GENERAL OF REGISTRATION,
IG OFFICE, VANCHIYOOR, THIRUVANANTHAPURAM-695 001.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TAX (REGISTRATION),
THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 : TRUE COPY OF THE NOTICE OF INTENDED MARRIAGE DATED 17.06.2015.**
- P2 : TRUE COPY OF THE RECEIPT FOR MONEY PAID ISSUED TO
THE 2ND RESPONDENT.**
- P3 : TRUE COPY OF THE INDIAN PASSPORT DATED 16.04.2012 OF
THE 1ST PETITIONER.**
- P4 : TRUE COPY OF THE AMERICAN PASSPORT DATED 30.06.2015 OF
THE 1ST PETITIONER.**
- P5 : TRUE COPY OF THE REGISTRATION FORM DATED 10.07.2015.**
- P6 : TRUE COPY OF THE JUDGMENT IN O.P NO.664/2013 OF THE FAMILY
COURT, KANNUR, DATED 16.10.2014.**
- P7 : TRUE COPY OF THE DECREE IN O.P NO.664/2013 OF THE FAMILY COURT,
KANNUR, DATED 16.10.2014.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No. 22366 of 2015

Dated this the 24th day of July, 2015

J U D G M E N T

The 2nd petitioner, an Indian citizen, desires to enter into a marriage with Animon Sundaram, the 1st petitioner herein. Though the 1st petitioner is an Indian Citizen by birth, he obtained citizenship of United States of America. The 2nd petitioner informed the 1st respondent about the acquisition of American Citizenship of the 1st petitioner.. 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, 1954 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, both the petitioners are divorcees as evidenced from Ext.P1.

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 2nd petitioner is a citizen of India. The bridegroom, the 2nd petitioner who is an Indian by birth

has obtained American citizenship and even if a Marriage Officer is appointed by the Government of India in its Embassy at America, there would be no requirement of informing such Marriage Officer, since the intending bride is an American 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