

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. 22393 of 2015 (Y)

PETITIONER(S) :

**VINEELA VUYYURU, AGED 26 YEARS,
D/O.VUYYURU KRISHNA PRASAD READDY, RESIDING AT
PLOT NO.968, MLG 1ST MAIN ROAD, TNHB COLONY, VELACHERY,
CHENNAI- 600 042, TAMIL NADU.**

BY ADV. SRI.JACOB E SIMON

RESPONDENT(S) :

- 1. THE SUB REGISTRAR/MARRIAGE OFFICER,
SUB REGISTRAR OFFICE, KOTTAYAM,
KOTTAYAM DISTRICT, PIN- 686 004.**
- 2. INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM, PIN- 695 035.**
- 3. THE STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
TAX (REGISTRATION) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN- 695 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**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 :

EXHIBIT P1: TRUE COPY OF THE RELEVANT PORTION OF THE PASSPORT OF THE ABILASH CHANDY.

EXHIBIT P2: TRUE COPY OF THE RELEVANT PORTION OF THE CERTIFICATE OF REGISTRATION OF OVERSEAS CITIZEN OF INDIA OF THE ABILASH CHANDY.

EXHIBIT P3: NOTICE OF MARRIAGE SUBMITTED BEFORE THE FIRST RESPONDENT AS PER THE PROVISIONS OF SECTION 5 OF THE SPECIAL MARRIAGE ACT-1954.

EXHIBIT P4: TRUE COPY OF THE REJECTION ORDER OF THE FIRST RESPONDENT NUMBERED AS 373/2015 DATED 22.07.2015.

EXHIBIT P5: TRUE COPY OF THE SINGLE STATUS CERTIFICATE ISSUED FROM THE MUNICIPALITY OF ROM DATED 30.06.2015 ALONG WITH AN ENGLISH TRANSLATION.

EXHIBIT P6: TRUE COPY OF THE JUDGMENT OF THIS HONORABLE COURT IN W.P.(C).NO.16893 OF 2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No. 22393 of 2015

Dated this the 24th 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 Abilash Chandy. Though the said Abilash Chandy is an Indian Citizen by birth, he obtained citizenship of Italy. The petitioner has submitted a notice of marriage before the respondent as per the provisions of 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.P5 dated 30.06.2015 granted by the Municipality of Rome, which shows the status of the bridegroom as single.

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 is a citizen of India.

The bridegroom who is an Indian origin, is an Italian citizen, who the petitioner 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 Italy, there would be no requirement of informing such Marriage Officer, since the intending bride is a Italian 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