

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 24914 of 2015 (L)

PETITIONER(S):

- 1. SIJO MATHEW AGED 37 YEARS
S/O.MATHEW THAMARACHALIL JOSEPH, AGED 37 YEARS
THAMARACHALIL HOUSE, MAKKIYAD P.O., VELLAMUNDA
WAYANAD DISTRICT, KERALA-670 731.**
- 2. KUSUMATIK KARINA
D/O.LAMIDI, AGED 34 YEARS, SUKORAME HOUSE
JL MERGO TANI RTO 19RW.006, KEDIRI POST, KEDIRI
INDONESIA-641 14, PASSPORT NO.BO296602
NOW RESIDING AT SIJO MATHEW, THAMARACHALIL HOUSE
MAKKIYAD P.O., VELLAMUNDA, WAYANAD DISTRICT
KERALA-670 731.**

**BY ADVS.SRI.KRISHNADAS P. NAIR
SMT.K.L.SREEKALA
SRI.HARIDAS P.NAIR
SRI.M.A.VINOD
SRI.K.R.RAMESH
SMT.B.SABITHA (DESOM)
SMT.K.RENUKA DEVI**

RESPONDENT(S):

- 1. THE SUB REGISTRAR
MARRIAGE OFFICER FOR THE REGISTRAR OFFICE
VELLAMUNDA, WAYANAD.**
- 2. THE DISTRICT REGISTRAR
REGISTRAR OFFICE, WAYANAD - 670 001**
- 3. THE REGISTRAR INSPECTOR GENERAL
STATE OF KERALA, THIRUVANANTHAPURAM 695 001**

BY SMT. A.K.SHERIN, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 24914 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF THE PASSPORT DETAILS OF THE 1ST PETITIONER**
- EXT.P2: COPY OF THE PASSPORT, VISA, ADDRESS AND BIRTH CERTIFICATE
DETAILS OF THE 2ND PETITIONER**
- EXT.P3: COPY OF THE NOTICE OF INDENTED MARRIAGE FILED BY THE
PETITIONERS BEFORE THE 1ST RESPONDENT ON 6.8.2015.**
- EXT.P4: COPY OF THE ORDER OF 3RD RESPONDENT HAVING
NO.RR6.23638/2014 DATED 21.10.2014**

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.24914 of 2015

Dated this the 17th day of August, 2015

JUDGMENT

The 1st petitioner is an Indian Citizen residing at Vellamunda, Wayanad District and the 2nd petitioner is from Indonesia. The passports of the 1st petitioner and the 2nd petitioner are produced as Exts.P1 and P2. As evident from Ext.P3, the petitioners submitted Ext.P3 notice of intended marriage under Section 5 of the Special Marriage Act, 1954. The grievance of the petitioner is that the 1st respondent is not accepting Ext.P3, in view of Ext.P4 public notice of the 3rd respondent dated 21.10.2014.

2. According to the petitioners, the objection raised by the 1st respondent relying on public notice dated 21.10.2014 is covered in their favour by the judgment of this Court in **Vivian Varghese v. State of Kerala [2015 (3) KLT 21]**. Therefore the petitioners are seeking a writ of mandamus commanding the 1st respondent to accept Ext.P3 application and notice of intended marriage.

3. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

4. In **Vivian Varghese's case (supra)**, this Court held as follows:

"8. That is not the issue which has to be considered at present. A foreign citizen seeks to enter into a marriage with an Indian citizen within the territories of India. The foreign citizen has produced a document by which her status is clearly stated to be single. The application has been made by an Indian Citizen, the petitioner; who has permanent residence within the jurisdiction of the 3rd respondent. The Marriage Officer even if appointed in the Embassies abroad, would have no authority to conduct the marriage of a citizen of that country; unless it be contracted with an Indian Citizen.

9. In such circumstance, the application of the petitioner at Ext.P3 shall be accepted and notice shall be given by the 3rd respondent as required under the Act and the petitioner shall be permitted to contract the marriage as intended by him which shall be solemnised by the 3rd respondent as per the provisions of the Special Marriage Act."

In view of the judgment of this Court in **Vivian Varghese's case (supra)**, the petitioners are entitled for the reliefs prayed for, if the 2nd petitioner has produced any document before the

1st respondent by which her status is clearly stated to be single.

In the result, this writ petition is disposed of directing the 1st respondent to accept Ext.P3 application and notice of intended marriage submitted by the petitioner, if the same is supported by any document by which the status of the 2nd petitioner is clearly stated to be single and permit the petitioners to contract the marriage as intended by them, which shall be solemnised by the 1st respondent as per the provisions of the Special Marriage Act.

JV

SD/-
ANIL K. NARENDHAN,
JUDGE