

**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**

**WP(C).No. 25751 of 2015 (T)**  
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**PETITIONER(S) :**  
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**ANISH BABU MATHEW, S/O.SUSAN BABU,  
R/AT ANJILIMOOTTIL, KALLUMALA, MAVELIKKARA,  
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.A.AHZAR  
SRI.S.KABEER**

**RESPONDENT(S) :**  
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- 1. STATE OF KERALA,  
REPRESENTED BY ITS PRINCIPLE SECRETARY,  
DEPARTMENT OF TAXES AND REGISTRATION,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 2. INSPECTOR GENERAL OF REGISTRATION,  
OFFICE OF INSPECTOR GENERAL VANCHIYOOR,  
THIRUVANANTHAPURAM- 695 001.**
- 3. MARRIAGE OFFICER AND SUB REGISTRAR,  
SUB REGISTRAR OFFICE, MAVELIKKARA,  
ALAPPUZHA- 688 5011.**

**BY GOVERNMENT PLEADER SMT.C.K.SHERIN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

Msd.

**WP(C).No. 25751 of 2015 (T)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS :**  
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**EXHIBIT P1: TRUE COPY OF THE PASSPORT OF THE PETITIONER.**

**EXHIBIT P2: TRUE COPY OF THE PASSPORT AND VISA OF THE KRISTINE ANNE.**

**EXHIBIT P3: TRUE COPY OF THE CERTIFICATE DATED 12.11.2014.**

**EXHIBIT P4: TRUE COPY OF THE NOTICE OF INTENDED MARRIAGE BY  
THE 3RD RESPONDENT.**

**RESPONDENT(S)' EXHIBITS :**  
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**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**K. VINOD CHANDRAN, J.**

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W.P.(C) No. 25751 of 2015 (T)  
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Dated this the 20<sup>th</sup> day of August, 2015

**J U D G M E N T**

The petitioner, an Indian citizen, desires to enter into a marriage with a Philippines citizen. The petitioner, residing under the jurisdiction of the 3<sup>rd</sup> respondent, made an application for contracting the said marriage under the Special Marriage Act, 1954. An objection was raised by the 3<sup>rd</sup> 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.

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 3<sup>rd</sup> respondent. A Philippines citizen, who he 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 Philippines, there would be no requirement of informing such Marriage Officer, since the intending bride-to-be is a Philippines citizen. In such circumstance, the application of the petitioner shall be accepted and notice shall be given by the 3<sup>rd</sup> respondent as required under the Act and the petitioner permitted to contract the marriage as intended by him, which shall be solemnised under the Act.

The writ petition is allowed.

Sd/-  
K.VINOD CHANDRAN,  
JUDGE