

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 27832 of 2015 (D)

PETITIONER(S):

1. ASHA DEVI, AGED 31 YEARS, D/O.THANKAPPAN,
PUTHUPPARAMBIL HOUSE, VELLOOR POST,
PAMPADY, KOTTAYAM-686 501.
2. AKKAS ALI HIRA, AGED 32 YEARS,
S/O.MOHD QUDDUS MIAH, PUTHUPPARAMBIL HOUSE,
VELLOOR POST, PAMPADY, KOTTAYAM-686 501.

BY ADV. SRI.T.O.XAVIER

RESPONDENT(S):

1. SUB-REGISTRAR,
SUB REGISTRAR OFFICE, P.O PAMPADY,
KOTTAYAM DISTRICT-686 501.
2. UNION OF INDIA,
FOREIGN AFFAIRS DEPARTMENT, NEW DELHI-110 001.
3. SUPERINTENDENT OF POLICE,
KOTTAYAM POLICE STATION, KOTTAYAM-686 001.

***ADDL.R4 IMPEADED**

***ADDL.R4: PAMPPADDY PANCHAYATH OFFICE,
PAMPPADDY.P.O.- 686 501
REPRESENTED BY ITS SECRETARY.**

***IS IMPEADED AS ADDL.4TH RESPONDENT AS PER ORDER DATED 23/9/15 IN
IA.NO.13403/2015.**

**R1 & R3 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
R2 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADV. SMT.C.G.PREETHA, CGC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 27832 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : A TRUE COPY OF THE ELECTION IDENTITY CARD ISSUED BY THE ELECTION COMMISSION OF INDIA**
- P2 : A TRUE COPY OF THE RELEVANT PORTION OF THE RATION CARD NO.1523126407**
- P3 : A TRUE COPY OF THE RELEVANT PORTION OF THE PASSPORT OF THE 1ST PETITIONER BEARING NO.F8555562**
- P4 : A TRUE COPY OF THE RELEVANT PORTION OF THE PASSPORT OF THE 2ND PETITIONER BEARING NO.BE0271369, ISSUED BY THE PEOPLE'S REPUBLIC OF BANGLADESH**
- P5 : A TRUE COPY OF THE TRANSLATED MARRIAGE CERTIFICATE FOR NON-SAUDIS IS OBTAINED FROM CONSULATE GENERAL OF JEDDAH SIGNED BY THE JUDGE OF JIZAN MARRIAGE REGISTRATION COURT.**

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

/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.27832 of 2015

Dated this the 5th day of October, 2015

JUDGMENT

The first petitioner is an Indian citizen. The second petitioner is a citizen of Bangladesh. According to them, they have married while working at Saudi Arabia. They rely upon Ext.P5.

2. The petitioner now approached the first respondent to register the marriage in terms of the Special Marriage Act (for short, the “Act”). It appears that the first respondent refused to act upon the request of the petitioners. Accordingly, the petitioners have approached this Court.

3. In several judgments, this Court held that there is no impediment in an Indian citizen in marrying the foreign national in accordance with the Act. However, in this case, the petitioners seek registration of the marriage in terms of the Act based on Ext.P5. Section 15 of the Act, provides as follows:

Registration of marriages celebrated in other forms:- Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act,

1872 (III of 1872) or under this Act, may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled,

- (a) a ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since;
- (b) neither party has at the time of registration more than one spouse living;
- (c) neither party is an idiot or a lunatic at the time of registration;
- (d) the parties have completed the age of twenty-one years at the time of registration;
- (e) the parties are not within the degrees of prohibited relationship:

Provided that in the case of a marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits of a marriage between the two; and

- (f) the parties have been residing within the district of the Marriage Officer for a period of not less than thirty days immediately preceding the date on which the application

is made to him for registration of the marriage.

This Court is of the view, the first respondent shall consider the petitioners request in terms of Section 15 of the Act based on Ext.P5 and take appropriate decision. If it is found that the petitioners are entitled for registration, the first respondent shall register the same in accordance with Section 15 of the Act. Needful shall be done within three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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