

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2015

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

R.A.No.193 of 2015
(W.P.No.29742 of 2013)

The Registrar General of Births
Deaths and Marriages
Santhome High Road
Chennai 600 028.

... Applicant/Respondent

Vs.

Audrey Martina

... Respondent/Petitioner

Prayer : Review Application has been filed against the order dated 10.03.2015
passed in W.P.No.29742 of 2013.

For Applicant : Mr.R.Vijayakumar
Addl.Govt. Pleader

For Respondents : Mr.D.Shivakumaran

ORDER

Heard Mr.R.Vijayakumar , learned Additional Government Pleader appearing for the review applicant and Mr.D.Shivakumaran, learned counsel appearing for the respondent.

2.This Review Application has been filed to by the Registrar General of Births, Deaths and Marriages, Chennai, to review the order and direction issued by this Court dated 10.03.2015 in W.P.No.29742 of 2013.

3.The respondent/writ petitioner filed a Writ Petition, challenging the order passed by the Review Applicant dated 19.10.2012 and to direct the review applicant to make entry in the Register of Births, Deaths and Marriages, maintained in his Office by cancelling the Marriage Certificate in Sl.No.69 dated 14.02.2009, issued by the ICM (Indian Christian Marriage) Marriage Registrar by making suitable entries by taking into consideration the Judgment and decree in O.S.No.90 of 2009 on the file of the Principal Family Court, Chennai.

4.This Court by an order dated 10.03.2015, allowed the Writ Petition and issued the following directions:

"5.In the light of the above, the impugned order cannot be sustained and accordingly, the same set aside and the matter is

remitted to the respondent for fresh consideration. The respondent shall take into consideration the decree passed by the Civil Court in which the marriage solemnised between the petitioner and the said Prabhu was cancelled and the certificate has also been declared as null and void, within a period of four weeks from the date of receipt of a copy of this order."

5.The Review Applicant who was the respondent in the writ petition has filed the Review Application primarily on three grounds. Firstly, stating that the Christian marriages are solemnised by licenced persons and Priests under the Indian Christian Marriage Act,1872 and based on the certificate issued by the person who solemnised the marriage, the District Registrar makes entry in the Register. Therefore, it is the submission that the entry relating to the writ petitioner cannot be deleted, because it was an entry made pursuant to the Marriage Certificate issued by the Christian Marriage Registrar. The second contention is that the Review petitioner has no power to enter the order of the Family Court cancelling the marriage solemnised by the Church. Thirdly, it is contended that in terms of Section 78 of the Indian Christian Marriage Act, 1872, correction could be done only by the Priests authorised under section 5 of the Act.

6.In my view the above three grounds were never raised at the time when the writ petition was heard. Therefore, the order cannot be reviewed on the aforesaid grounds. Further more, it has to be pointed out that the Writ Petition

was filed in January 2013 and till its disposal in 2015, no counter affidavit has been filed. Therefore, on the grounds raised by the Review Applicant, the order passed by this Court in the Writ Petition, cannot be reviewed.

7. Accordingly, the Review Applicant is liable to be dismissed. However, it is made clear that the legal issue pointed out herein is left open to be agitated by the review applicant if a need arise in other proceedings. In so far as the present case is concerned, the writ petitioner having obtained a decree from the Family Court, which has declared the marriage as null and void, cannot be expected to go back to the Marriage Registrar and obtain a cancellation certificate and then come back to the District Registrar for registering the cancellation.

8. It has to be noted that in O.S.No.90 of 2009, which was filed by the writ petitioner for declaring the marriage as null and void, the Marriage Registrar Rev.A.M.Cedric Beno was the second defendant. Therefore, the decree passed by the Family Court binds the Marriage Registrar also. Further, the Suit was decreed as prayed for and in which two prayers were sought viz. (a) for declaration of the marriage dated 14.02.2009 between the writ petitioner and the first defendant in the Suit (B.Prabhu) as null and void and (b) the marriage certificate bearing Sl.No.69 of the Marriage Registrar Rev.A.M.Cedric Beno as duly cancelled.

Therefore, the Marriage Certificate dated 14.02.2009, stands cancelled and consequently the Review Applicant has to effect necessary entry in the Register maintained in his Office based on the decree passed by the Family Court.

In the result, the Review Application stands dismissed. No costs.

21.08.2015

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T.S.SIVAGNANAM J,
rpa

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