

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No. 39085 of 2016

Tamil Nadu Inter Caste Married & Social
Welfare Association,
rep. By its President K.Ananth
No.87, Sankara Naidu Street,
Thirupapuliyur, Cuddalore - 2
Cuddalore District ...Petitioner

Vs.

1. The Inspector General of Registration /
The Registrar General of Marriage,
No.128, Santhome High Road,
Chennai - 28
2. The District Registrar,
Cuddalore - 2
3. The Joint Sub-Registrar II
Cuddalore - 2
Cuddalore District ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 25.10.2016 and receive all the application for marriage submitted through petitioner's Association and register it and issue marriage certificate to them under the provisions of the Tamilnadu Registration of Marriage Act, 2009 or under the provisions of Hindu Marriage Act, whichever is applicable.

For Petitioner : Mr. S.Pushpakaran

For Respondents : Mr.A.Kumar for R1 to R3
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 25.10.2016 and receive all the application for marriage submitted through petitioner's Association and register it and issue marriage certificate to

them under the provisions of the Tamilnadu Registration of Marriage Act, 2009 or under the provisions of Hindu Marriage Act, whichever is applicable.

2. According to the petitioner, it is registered under the Tamilnadu Societies Registration Act, 1975 in Sl.No.131/2013 and they are conducting marriage for poor people irrespective of their caste, creed and religion after verifying their credentials and fulfillment of other eligibility criteria prescribed by the Act and issue certificate that the marriage has been solemnized before them. The grievance of the petitioner is that when they submit application with all particulars on behalf of the applicants seeking issuance of marriage certificate, 3rd respondent / Joint Sub-Registrar II, Cuddalore has refused to receive the same and hence the petitioner has come forward with this Writ Petition.

3. The learned counsel for the petitioner would contend that the petitioner-Association conducted marriage after verifying necessary credentials and issued certificate that the marriage was solemnized before them. Therefore, it is the duty of the 3rd respondent to receive the application and register it and they cannot summarily refuse to receive the application. He would also point out that when the marriage registration is compulsory and the said marriage is solemnized by the association, after verifying all the necessary details, the 3rd respondent should register the same, but without doing so the 3rd respondent has refused to receive the application submitted by the petitioner.

4. The learned Special Government Pleader appearing for the respondents brought to the notice of this Court that the validity of the registration of the petitioner's association has already expired. Thereafter, renewal has been sought for and the petitioner-association has not been renewed. Therefore, as on date, it is not a valid association. He would further contend that the association by itself has no legal right to conduct any marriage and even if intercaste marriage is conducted, it is for them to approach concerned authority for due registration under the Act. The association, on behalf of persons, cannot submit applications to the competent authority to register the marriage. It is also not known under what authority the association has conducted marriage? Earlier, this Court has categorically stated that the marriage conducted in the office of the Advocate or in other places are not legally valid marriage. Merely because it is an association and that too a non-valid association as on date, they cannot conduct marriage and seek the authority to register the same. He would further contend that the 3rd respondent has not rejected the application, but only stated that the concerned applicants/persons should approach the appropriate authority for registration and the

association cannot approach the authority for registration.

5. Heard the learned counsel on either side and perused the materials available on record.

6. As rightly pointed out by the learned Special Government Pleader appearing for the respondents merely because the petitioner form an association under the name and style of "Tamilnadu Inter Caste Married & Social Welfare Association" that does not have any legal right to solemnize the marriage. A particular person, who want to get married is entitled to marry according to his/her wish and if the marriages are solemnized in the temple or in a marriage hall, it is always open to those persons to get married by approaching Register office and get it registered in accordance with law.

7. Besides the above, this Court recalls and recollects the Judgment of the Hon'ble Division Bench of this Court in H.C.P.No.2767 of 2013 dated 17.10.2014 wherein it is clearly explained the meaning of the expression "solemnised" by following the Judgment of the Hon'ble Supreme Court in Bhaurao vs. State of Maharashtra [AIR 1965 SC 1564] and that the relevant portion is extracted hereunder:-

"20. At this juncture, we would like to refer to the meaning of the expression "solemnised" that is used both in Section 7 and in Section 7A of the Hindu Marriage Act as expounded by the Supreme Court in Bhaurao vs. State of Maharashtra [AIR 1965 SC 1564].

"The word 'solemnize' means, in connection with a marriage, 'to celebrate the marriage with proper ceremonies and in due form'. It follows, therefore, that unless the marriage is 'celebrated or performed with proper ceremonies and due form' it cannot be said to be 'solemnized'."

7. Admittedly, even if it is an association the same is not empowered or entitled to register or solemnize marriage.

8. Under those circumstances, the prayer in the Writ Petition cannot be granted and rightly the authority has also not registered the marriage. They have only stated that the parties alone are entitled to directly approach the appropriate competent authority and if the marriage is properly proved, the authority will register the marriage in accordance with law. However, it is made clear that the association as such cannot conduct or perform any marriage or create records to show that they have solemnised marriage without following the Rules of law. Therefore, when a valid marriage has not been conducted, a document authorising such marriage cannot be presented before

the registering authority for registration. In such view of th
matter, this Writ Petition is dismissed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

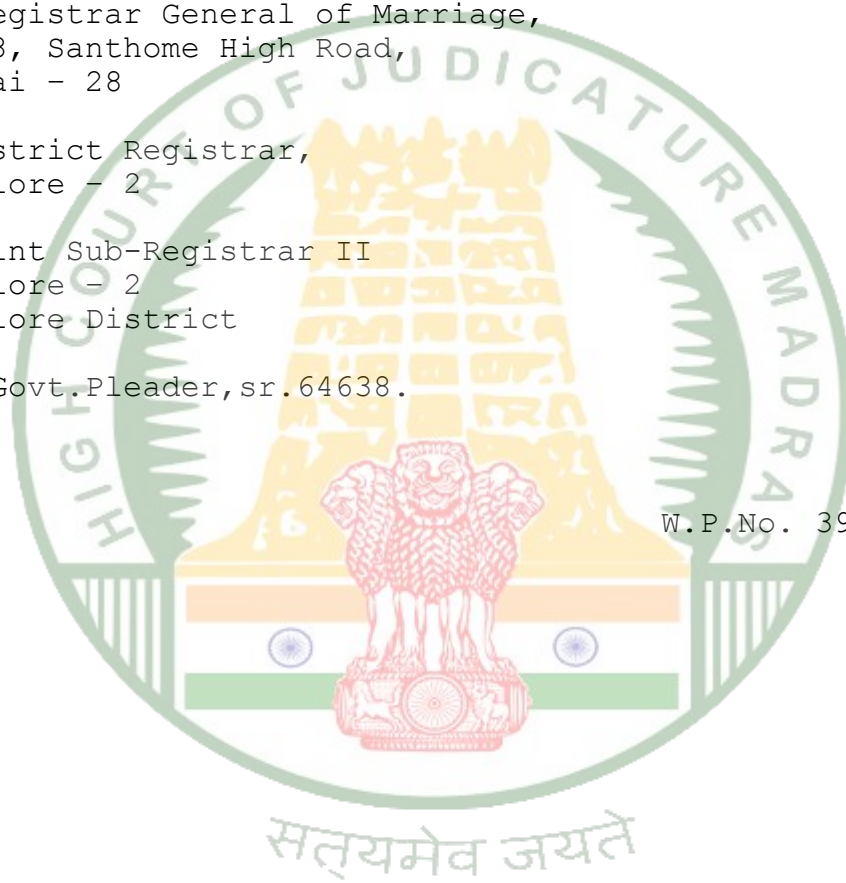
To

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+1 cc to Govt.Pleader,sr.64638.

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krd 9/1

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