

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2017

CORAM
THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.11299 of 2016
and WMP.No.9789 of 2016

Monika

.. Petitioner

Vs

- 1.The Sub Registrar,
District Registrar Office,
Chennai North Joint-I,
Chennai-1.
- 2.K.Ameer Batcha
- 3.Praveen Kumar
- 4.The Bar Council of Tamil Nadu,
Chennai 104.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records on the files of the 1st respondent in Form-III Certificate of Registration of Marriage dated 16.07.2014 entered at Sl.No.3459 of 2014 of Register of Marriages maintained under Tamil Nadu Registration of Marriages Act 2009 and quash the same as being without jurisdiction and authority of law, illegal and invalid.

For Petitioner : Mr.Shanmugha Velayutham
Senior Counsel for Mr.M.Kempuraj

For R1 : Mr.S.Rajeswaran
Spl.Govt.Pleader

For R2 : Mr.N.Rajkumar

For R3 : Mr.S.M.Mohideen Pitchai

For R4 : Mr.S.Y.Mashood

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O R D E R

The petitioner has challenged the marriage certificate issued by the authority concerned on the ground that the alleged marriage is said to have been solemnized in the office of the Advocate.

2. As per the judgement of the Division Bench of this Court in S.Balakrishnan Pandiyan vs. The Superintendent of Police, Kanchipuram, Kanchipuram District and 3 Others reported in 2014 (3) MWN (Cr.)616, no lawyer could certify the marriage taken place in his office and it should be registered as per law. In view of the H.M.O.P.No.443 of 2015 filed seeking declaration that the marriage itself is null and void, the petitioner has now come forward with the present writ petition to declare the certificate issued by the authority concerned is not in accordance with law.

3. The second respondent has filed a counter affidavit, in which it is stated that the petitioner and the third respondent were fell in love and ultimately third respondent married the petitioner knowing fully well of the consequence as she has been an Engineering Graduate. They have also approached the Registrar Office, where marriage registration took place and they have been contesting a case in an original petition for declaration that the marriage is null and void. The second respondent is an advocate and a common friend of both the parties. Therefore, he certified that the actual marriage had taken place in Suya Mariyadhai Thittam. It is stated that since there was a consent for marriage by third respondent and petitioner and the petitioner herself has come to the Registration Office, the present writ petition is not maintainable.

4. Heard both sides.

5. One important fact which has been taken note of that the marriage has been registered on the basis of the certificate issued by the Advocate which reads as follows:

CERTIFICATE

' This is to certify that the Seethirutha Marriage was solemnized between Selvan.P.Praveen Kumar son of P.Manickam aged about 23 years, residing at No.140/54, KAS NAGAR, COURT ROAD, MARAVANERI, SALEM-636 007 and Selvi M.MONIKA Daughter of K.MANI aged about 22 years, residing at No.208/83/1, POOSARI VATTAM, KATTUR, ALAGAPURAM, SALEM 636 016 on 16.07.2014 by me and the bridegroom and bride are garlanding themselves at No.59, MOORE STREET, PARRYS, CHENNAI 600 001 under the 7 (a) of the Seethirutha Marriage Customary Act."

6. As per the Division Bench Judgment of this Court reported in 2014(3) MWN (Cr.)616 S.Balakrishnan Pandiyan vs. The Superintendent of Police, Kanchipuram, Kanchipuram District and 3 Others, when solemnization of marriage has given by an advocate and the marriage has been solemnized in the office of the Advocate, it cannot be construed as a proper solemnization of the marriage.

7. Therefore, a question is raised whether the Registration Authority can register the marriage on the basis of the certificate issued by a lawyer. The Advocate office is not temple or church or any other place for conducting the marriage and the lawyers have no authority to solemnise any marriage. The Registrar could have at first instance obtained necessary documents for the proof of actual solemnization of marriage .

8. In view of the above, the certificate issued by the Registrar without conducting proper enquiry will become nullity. But in this case, since the petitioner has already filed original petition, where she sought for declaration that the marriage itself is null and void. The petitioner has to prove by filing necessary documents before the Civil Court, since in the original petition no order has been passed sofar.

9. This Court directs the fourth respondent viz., Bar Council of Tamil Nadu to take necessary action against the second respondent for having issued the marriage solemnization certificate. Notice has been served on the second respondent in this case. He has only appeared and an advocate has represented him and in fact a counter has been filed stating that the advocate has authority to issue certificate. The Bar Council shall take necessary disciplinary proceedings on the second respondent for having committed the mistake.

This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

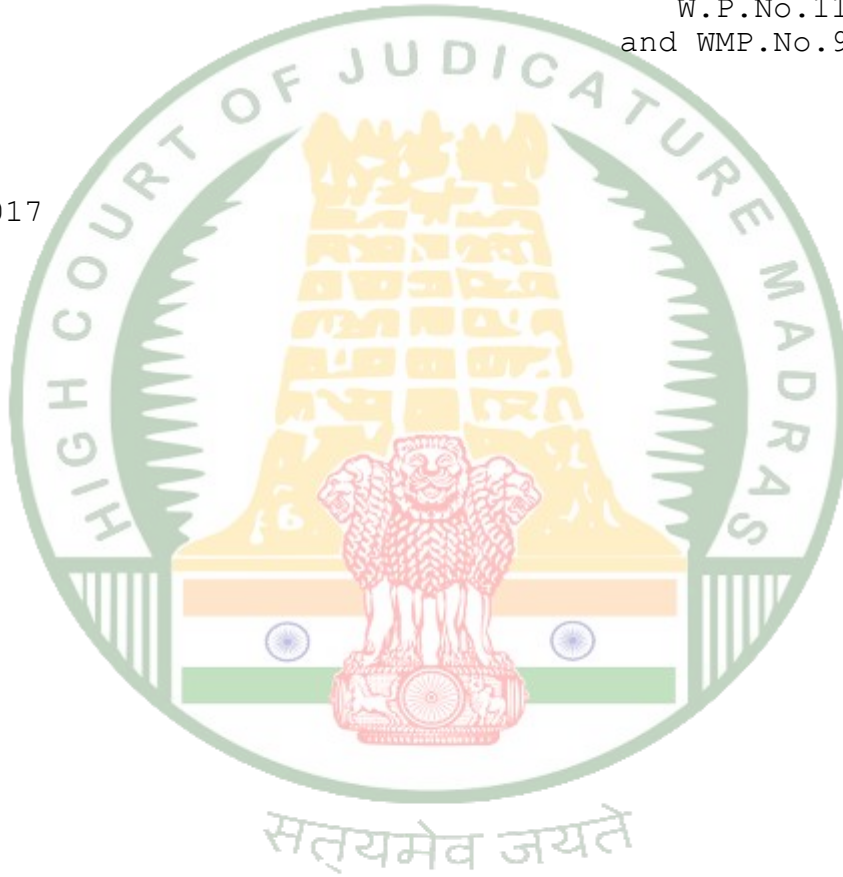
1.The Sub Registrar,
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Chennai 104.

+3 ccs to Mr.T.Vijayaraghavan Advocate sr 5737
+1 cc to Mr.S.Y.Masood, Advocate sr 5810
+1 cc to Mr.M.Mohideen Pitchai Advocate sr 5674
+1 cc to the Government Pleader sr 5929

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