

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3044 of 2018

Uma Maheswari

.. Petitioner

-vs-

1.The Sub-Registrar,
Tiruvallur District.

2.The Executive Officer,
Arulmigu Angalaparameswari Thirukovil,
No.34, Ramapuram, Putluru Road,
Thiruvallur District.

3.Kenson

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of declaration declaring that the alleged marriage solemnised between the petitioner and the third respondent and the certificate of registration of marriage on 02.11.2017 in Ref.HM No.472/2017 issued by the first respondent is non-est in law owing the procedural irregularity and absence of customary marriage.

For Petitioner :: Mr.R.Singaravelan,
Senior Counsel for
Mr.G.Ethirajulu

For Respondents :: Mr.T.M.Pappiah,
Special Government Pleader
for R1
Mr.M.Maharaja,
Special Government Pleader for R2
No appearance for R3
ORDER

The petitioner has filed this petition seeking declaration declaring that the alleged marriage solemnised between her and the third respondent and the certificate of registration of marriage on 02.11.2017 in Ref.HM No.472/2017 issued by the first respondent are non-est in law.

2.Learned senior counsel appearing for the petitioner would submit that the petitioner was born on 21.10.1998 and she studied in Zion Higher Secondary School, Chembakkam, Kancheepuram District. After finishing plus 2 during the academic year 2014-15, she joined B.C.A. at S.T.N.T.Vishnava College for Women, Chrompet, Kancheepuram District. In due course, the petitioner got acquainted with the third respondent in a friendly manner through the Face book as well as Whats app. On 01.11.2017, the third respondent informed the petitioner about his arrival to India to attend the marriage of his friend. On the request made by him, the petitioner has started to attend the marriage ceremony at first respondent's office and the third respondent requested her to be a witness along with him for the marriage of his friend along with another girl. Thereafter, she came to know the manipulation and the play conspired that the third respondent fraudulently married her in the first respondent's office. On verification it was revealed that till date the marriage certificate has not been handed over to the third respondent or to anybody. Therefore, the first respondent directed the petitioner and her parents to give a complaint about the incident. After perusal of the marriage documents, the petitioner has collected information from the second respondent's office through which she came to know that the receipt produced by the third respondent before the first respondent are concocted documents. After receipt of the complaint, the first respondent has given an assurance that they would conduct an enquiry in respect of the alleged marriage by issuing notice to respondents 2 and 3. Despite assurance, the first respondent has not come forward to issue any notice to them. Learned senior counsel appearing for the petitioner would further submit that the impugned solemnisation of the alleged marriage between the petitioner and the third respondent on 30.11.2017 in Receipt No.349 issued by the second respondent and registration of marriage on 02.11.2017 in H.M. No.472 of 2017 in terms of the Marriage Register maintained under Rules of Tamil Nadu Hindu Marriage (Registration) Rules 1967 by the first respondent is illegal and the same is liable to be set aside, for, no marriage ever took place at any temple but a receipt was obtained as if marriage took place in a temple and based on a marriage certificate allegedly issued by a temple, the Sub Registrar registered the marriage. Hence, fraud has been played to spoil the good will and respect of the petitioner's family. Therefore, this petition be allowed as prayed for.

3.Mr.M.Maharaja, learned Special Government Pleader for the second respondent producing the temple marriage register before this Court submitted that the duplicate marriage register produced before the Sub Registrar, Tiruvallur, the first respondent herein by the third respondent was not issued by the

second respondent temple at any point of time. Adding further, he pleaded that the marriage certificate as though issued by the second respondent temple in favour of the third respondent was a falsely created document and used only for the purpose of misleading the Sub Registrar, who registered the marriage as though the petitioner and the third respondent got married, which is wholly unacceptable. Since the Sub Registrar has registered the marriage and issued a marriage certificate based on the marriage certificate as though issued by the temple authority, the marriage certificate issued by the Sub Registrar has no legal sanctity in the eye of law, because it is a fraudulent document. Therefore, fraud vitiates all solemn proceedings.

4.Mr.T.M.Pappiah, learned Special Government Pleader appearing for first respondent would submit that the receipt dated 30.11.2017 was fraudulently obtained by the third respondent as if it was issued by the second respondent and the same was fraudulently created only for the purpose of misleading the petitioner and the Sub Registrar, Thiruvallur.

5.A perusal of the letter dated 19.02.2018 produced by the learned Special Government Pleader appearing for the second respondent shows that the same has been issued by the second respondent and the records recording the marriage between the petitioner and the third respondent was not issued by them and the same were created fraudulently and the alleged marriage has not taken place in the said temple. The aforementioned letter dated 19.2.2018 issued by the Thakkar of Arulmighu Angalaparameswari Tirukoil, Ramapuram, Putlur, Tiruvallur shows that the temple marriage register has been fraudulently and falsely produced by the third respondent. Again the letter issued by the Thakkar of the temple further shows that no such marriage has taken place on 30.10.2017. Therefore, the false marriage certificate allegedly issued by the second respondent temple that there was a marriage held on 30.10.2017 between the petitioner and the third respondent is nothing but an after-thought and it was concocted to deceive the petitioner, R1 and R2. Hence, this Court finds no hesitation to declare the certificate of marriage register impugned herein is non est in the eye of law.

6.Despite notice on R3, there has been no appearance on his behalf and the affidavit of service filed by the petitioner shows that notice was returned with an endorsement 'left'. Since the third respondent has fraudulently obtained the marriage certificate as if it was issued by the second respondent temple,

however based on the fraud played by the R3, the first respondent has registered the same, it cannot have its legal sanctity. Moreover, after notice served on the respondents 1 and 2, they have responded to this Court, whereas the third respondent has not turned up even after service of notice that also shows that R3 has no defence to offer to this Court. Hence this Court is of the view that the certificate of registration of marriage dated 02.11.2017 in Ref. HM No.472/2017 issued by the first respondent based on fraud played by the third respondent, the same is liable to be set aside and accordingly, it is set aside and this petition is allowed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Sub-Registrar,
Tiruvallur District.

2.The Executive Officer,
Arulmigu Angalaparameswari Thirukovil,
No.34, Ramapuram, Putluru Road,
Thiruvallur District.

W.P.No.3044 of 2018

GSP(05/06/2018)

सत्यमेव जयते

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