

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.5037 of 2018

and

WMP.No.6209 of 2018

1. Ajaay Ravi
Son of Ravi

2. Gayla Monique LeMaire
Wife of Ajaay Ravi

... Petitioners

Vs.

The Sub-Registrar (Joint I)
(District Registrar Cadre)
South Chennai,
Chennai-600 015.

... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in proceedings No.2573/App/2018, dated 28.02.2018 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondent to register the marriage of the petitioners held on 26.02.2018 at RISA Banquets, 201/10 ECR, Vettuvankani, Chennai-600 115.

For Petitioners : Mr.V.Raghavachari

For Respondent : Mr.R.Govindasamy

Special Government Pleader

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioners are aggrieved against the proceedings of the respondent dated 28.02.2018, wherein and whereby, the first petitioner was informed that the registration of the marriage of the petitioners will be done after 30 days from the date of receipt of no objection in pursuant to the notification issued

by the respondent regarding the marriage of the first petitioner with the second petitioner.

3. The facts and circumstances, which led the petitioners to approach this Court go this way. The first petitioner is an Indian National and the second petitioner is a Foreign National. It is stated that the petitioners got married on 26.02.2018 at Chennai under the Special Marriages Act 1954. Therefore, they made an application before the respondent for registering their marriage under the Special Marriages Act, 1954, also by waiving the period of notice. The respondent issued a impugned communication stating that the said registration can be done only after issuing required notice and waiting for the period stipulated under the Act, to see as to whether any objection is raised against the said marriage. Now, the petitioners seek for waiving of such notice on the reason that they have to leave abroad, as their leave period expires on 18.03.2018 and therefore, they have to leave India by 16.03.2018.

4. Mr.V.Raghavachari, learned counsel for the petitioners submitted that there is no difficulty for these petitioners to wait for the statutory time prescribed under the said Act to get their marriage registered, but for the reason that their leave period expires on 18.03.2018 and therefore, they have to necessarily leave the Country by 16.03.2018, which falls within the duration of such 30 days notice. Therefore, he suggested that these petitioners would appear before the respondent and mark their presence at any time as directed by this Court before their departure and the respondent after marking their presence and taking any affidavit as he desires, thereafter, can proceed in accordance with the Act and issue the Marriage Certificate at later point of time.

5. The learned Special Government Pleader appearing for the respondent, based on instructions, submitted that since the respondent has to act in accordance with the procedures contemplated under the relevant enactment, the impugned proceeding was issued.

6. Heard both sides.

7. It is stated that the petitioners got married on 26.02.2018 and they want to get their marriage registered under the Special Marriages Act, 1954, before the respondent. It is further stated that there are certain procedures to be followed by the respondent before issuing such certificate, which includes the waiting period of 30 days. However, as it is stated by the petitioners that their leave period expires on 18.03.2018 and they have to leave the Country by 16.03.2018, this Court is of the view that there cannot be any impediment

for the respondent to mark their personal appearance at any time, before considering the application for registration only for the purpose of dispensing with their personal appearance again at the time of disposing of their application as per the procedures prescribed under the relevant Act.

8. Therefore, this writ petition is disposed of, by directing the petitioners to appear before the respondent on or before 14.03.2018 and file an affidavit indicating their difficulties to appear on the subsequent dates since they have to leave the Country by 16.03.2018, as their leave period expires on 18.03.2018. Once these petitioners appear on the above said day, the respondent shall mark their presence and take their affidavit on file and thereafter, to proceed in accordance with the law, as required under the relevant enactment namely Special Marriages Act, 1954 and pass orders on their application, accordingly. This order is passed only as a special case taking into consideration the above stated facts and circumstances and thus, the same shall not be treated as precedent in any other case. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Sub-Registrar (Joint I)
(District Registrar Cadre)
South Chennai,
Chennai-600 015.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.18335

MP(CO)
RRK(12/03/2018)

W.P.No.5037 of 2018

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