

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6415 of 2017

Bhuvaneswari

.. Petitioner

Versus

1.The State of Tamil Nadu Represented
by Sub Registrar,
O/o.the Sub Registrar's Office,
Sholingur.

2.S.Kumaran

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to cancel the registration of marriage registered in Serial No.584/2016 dated 19.9.2016.

For Petitioner : Mrs.Selvi George

For Respondent-1 : Mr.T.M.Pappiah,
Special Government Pleader.

For Respondent-2 : No Appearance

O R D E R

The relief sought for in this writ petition is for a direction to direct the first respondent to cancel the registration of a marriage registered in Serial No.584/2016 dated 19.9.2016.

2. The grievance of the writ petitioner is that the marriage between the writ petitioner and the second respondent was solemnised and the same was registered before the first respondent. However, the registration itself was fraudulent and based on certain false statements made by the second respondent.

3. The learned counsel, appearing on behalf of the writ petitioner, made a submission that such fraudulent activities in respect of marriages are now increasing in the Society and the young girls are being trapped from and out of such false and fraudulent marriages registered without their consent.

4. In view of the fact that the marriage was registered before the first respondent, who in turn routinely registered the same without ascertaining the actual facts and the circumstances, this Court is of an opinion that certain considerations are required in respect of the grievances raised by the writ petitioner in the present writ petition.

5. The allegations stated as against the second respondent by the writ petitioner is that the second respondent expressed his willingness to marry the writ petitioner and the petitioner did not show any interest. The second respondent frequently disturbed the writ petitioner and started harassing her frequently. Having unable to tolerate the troubles given by the second respondent, the writ petitioner resigned her job and joined in another Company situated at Oragadam. Then also the second respondent was able to get her whereabouts and started troubling her.

6. The circumstances narrated in paragraphs 3, 4 and 5 of the affidavit states that the second respondent had frequently harassed the writ petitioner and created circumstances and thereafter, the writ petitioner was forced to register the marriage before the first respondent. At the outset, the writ petitioner states that she was mentally compelled by the second respondent to sign the registration of marriage and there was no actual consent from the writ petitioner for solemnisation of marriage.

7. Though this Court, under normal circumstances, cannot interfere with the registration of marriages and if the marriages are registered before the Sub-Registrar concerned, the only avenue left open to the aggrieved persons are to approach a Competent Court of Law for dissolution of marriage or for restitution of conjugal rights or for any other relief.

8. Thus, the parties have to approach the Competent Court of Law for redressing their grievances. However, this Court is of an opinion that in the present case, there is an allegation of fraudulent influence by the second respondent against the writ petitioner and further, it is stated that the writ petitioner was unable to express the same at the time of registration of the marriage and there was no enquiry by the first respondent at the time of registration of marriage.

9. In view of the fact that there was no proper enquiry by the first respondent at the time of registration of marriage in respect of coercion, fraudulent influence or other allegations set out in the writ petition, now this Court is of an opinion that it is necessary to refer the matter before the Competent Authority for complete adjudication and take a decision in this regard.

10. The Inspector General of Registration issued a Circular regarding the mandatory procedures to be followed to deal with the complaints relating to the fraudulent registrations due to the non-adherence of the various safeguards stipulated in the Circulars issued by the Inspector General of Registration for preventing the fraudulent registration (as enumerated in the Inspector General of Registration's Circular dated 20.10.2017 such as verification of EC, Original Title Deed and obtaining Life Certificate of the Principal, ensuring due attestation of erasures, alterations in a document etc., and any other relevant Circulars/orders) as per Letter No.41350/U1/2017, dated 7.11.2017.

11. In view of the Circular issued by the Inspector General of Registration, the District Registrar is competent to conduct a detailed enquiry by providing opportunity to the writ petitioner as well as the second respondent and other concerned persons and thereafter, take a decision and pass orders in respect of the claim of the writ petitioner for cancellation of Marriage Registration Certificate. While conducting the enquiry, the District Registrar shall give reasonable opportunity to all the parties and more-so, a personal hearing must be provided in view of the fact that the registration relates to the solemnisation of marriage. Thus, the personal hearing must be given to the writ petitioner and the second respondent and also to the persons who all are witnesses or otherwise during the solemnisation of the marriage.

12. In this view of the matter, the writ petitioner is directed to submit a fresh complaint, setting out all the details along with the documents to the District Registrar, concerned, within a period two weeks from the date of receipt of a copy of this order and on receipt of the complaint from the writ petitioner, the District Registrar, concerned shall issue notice to the second respondent and all other persons concerned and thereafter, conduct an enquiry and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.

13. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The District Registrar,
State of Tamil Nadu,
O/o.the Sub Registrar's Office,
Sholingur.

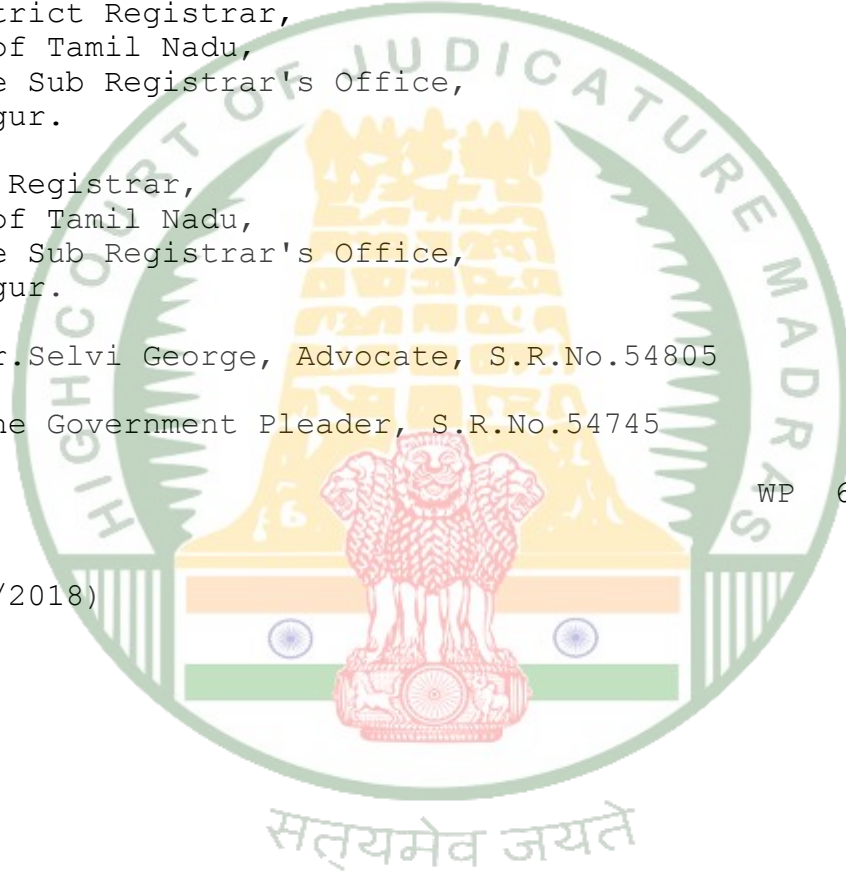
2.The Sub Registrar,
State of Tamil Nadu,
O/o.the Sub Registrar's Office,
Sholingur.

+1cc to Mr.Selvi George, Advocate, S.R.No.54805

+1cc to the Government Pleader, S.R.No.54745

WP 6415 of 2017

MR(CO)
GSP(03/08/2018)



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