

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16578 of 2018

J.Shaik Mohammed

..Petitioner

Vs.

- 1.The Inspector General of Registration,
Santhome, Chennai.
 - 2.The District Registrar,
Tiruppur District, Tiruppur.
 - 3.The Marriage Registrar,
Sub Registrar Office,
Uthukkuli, Tiruppur District.
- ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 3rd respondent to register the petitioner's marriage with Ramamaruthi which was solemnized on 22.06.2018 by Mr.Sowkath Ali, Son of Abdul Kareem at Bharathiyar Street, Uthukkuli, Uthukkuli Circle, Tiruppur District - 638 752 under Special Marriage Act.

For Petitioner : Mr.A.Raghuraman
For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

सत्यमेव जयते
O R D E R

The learned counsel for the petitioner submitted that the petitioner was born on 28.03.1990 to Jaffer Hussain and Basha Begum at Malai Veedhi, Velayudhampalayam, Karur and he belongs to Labbai Community. On 22.06.2018, the petitioner got married to one Ramamaruthi, who is a Hindu by birth, belonging to Ambalakarar Community of Punjai Pugalur Village, Karur. As both of them are major and belonged to Most Backward Class community by birth, their parents did not accept their love, when they informed about their love to their parents. In view of the objections from their families, finding no other way, they decided to marry in a hurried manner without inviting any relatives. Finally their marriage was solemnized on 22.06.2018

by one Sowkath Ali in the presence of few relatives according to Islamic rites and customs. Thereafter, the petitioner approached the 3rd respondent for registration of his marriage. But the same was refused as the procedures contemplated under the Special Marriage Act was not complied with before marriage. Hence, the petitioner has come to this Court.

2.As both the petitioner and Ramamaruthi have attained majority, the 3rd respondent cannot refuse to register their marriage, which was already solemnized on 22.06.2018.

3.The learned Special Government Pleader, in reply, submitted that since the petitioner and Ramamaruthi belong to different religion, Sections 5 & 6 of the Special Marriage Act, 1954 would apply to their case. Sections 5 & 6 of the Special Marriage Act, 1954 are extracted hereunder:

"5.Notice of intended marriage - When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the Form specified in the Second Schedule to the Marriage Officer of the District in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

6.Marriage Notice Book and publication - (1) The Marriage Officer shall keep all notices given under Section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fees, by any person desirous of inspecting the same. (2)The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office. (3)Where either of the parties to an intended marriage is not permanently residing within the local limits of the District of the Marriage Officer to whom the notice has been given under Section 5, the Marriage Officer shall also cause a copy of the notice to be transmitted to the Marriage Office of the District within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office."

4.The learned Special Government Pleader further submitted that In the present case, without complying with the provisions of Section 5 of the Act, the petitioner has straight away approached the 3rd respondent for registering his Marriage.

5.At this stage, the learned counsel for the petitioner submitted that the petitioner would comply with Section 5 of the Act by giving 30 days notice and after giving 30 days notice, the 3rd respondent may be directed to register the marriage.

6.In view thereof, the petitioner is directed to approach the 3rd respondent and present his application. As per Section 5, the parties to the marriage shall give notice in writing in the Form specified in the Second Schedule to the Marriage Officer of the District. After the notice, the 3rd respondent is directed to consider the registration of the marriage of the petitioner with Ramamaruthi as per the provisions of law.

7.In the result, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome, Chennai.
2. The District Registrar,
Tiruppur District, Tiruppur.
3. The Marriage Registrar,
Sub Registrar Office,
Uthukkuli, Tiruppur District.

+2cc to Mr.A.Raghuraman, Advocate, S.R.No.44426
+1cc to the Government Pleader, S.R.No.44558

BM 19/07/2018

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