

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.9146 of 2019
and
W.M.P.No.9669 of 2019

K.Amjath Khan .. Petitioner
Vs.

The Union of India
Represented by its Secretary
Ministry of Law & Justice
4th Floor, "A" wing,
Shastri Bhawan,
New Delhi. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Declaration, declaring Clause 4 to 7 of the Muslim Women (Protection of Rights on Marriage) Ordinance, 2019; Ordinance No.1 of 2019 as ultra vires the Constitution of India.

Petitioner : Mr.Zaffarullah Khan
For Respondent : Mr.S.Thiruvengadam

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Petitioner has sought for a Writ of Declaration, declaring Clause 4 to 7 of the Muslim Women (Protection of Rights on Marriage) Ordinance, 2019; Ordinance No.1 of 2019 as ultra vires the Constitution of India.

2. Attention of this Court was also invited to an order made in Writ Petition (Civil) No.302/2019 between Samastha Kerala Jamiathul Ulema and another vs. Union of India, wherein the Hon'ble Supreme Court declined to entertain a writ petition, challenging the very same Ordinance, filed before the Hon'ble Apex Court.

3. Hon'ble Supreme Court, vide order dated 25.03.2019, dismissed the writ petition filed therein, stating that as the

challenge in the writ petition is only to an Ordinance. For brevity, short order made in Writ Petition (Civil) No.302/2019, dated 25.03.2019, is reproduced:-

"Heard learned counsel for the petitioners and perused the relevant material.

As the challenge in the petition is to an Ordinance, we are not inclined to entertain the writ petition. However, we make it clear that we have not expressed any opinion on the merits of the case.

The writ petition is, accordingly, dismissed."

4. Though Mr.Zaffarullah Khan, learned Senior Counsel for the petitioner submitted that the Hon'ble Supreme Court, did not pass a detailed order and therefore this Court would not be precluded from entertaining the instant writ petition, filed for declaration, we are not inclined to accept the said contention, for the reason that the Hon'ble Supreme Court has given reasons that as the challenge in the writ petition, is only to an ordinance and on the same lines, this Court is not inclined to entertain the writ petition. Order of the Hon'ble Supreme Court, applies to the facts of the present case.

6. Following the order made in Writ Petition (Civil) No.302/2019, dated 25.03.2019, instant writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

dm

To

Secretary,
Union of India
Ministry of Law & Justice
4th Floor, "A" wing,
Shastri Bhawan, New Delhi.

+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No. 31274

W.P.No.9146 of 2019

and

W.M.P.No.9669 of 2019

PP(CO)
GN(03/04/2019)