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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **30.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1101 of 2019

and

C.M.P (MD)No.9878 of 2019

P.Balamurugan ... Appellant/3rd respondent
Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Marriage Registrar cum
Sub Registrar,
Nilakottai Sub Registrar Office,
Nilakottai,
Dindigul District.

..Respondents 1 & 2 /Respondents 1 & 2

3.C.K.Roja ...3rd respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 27.04.2019 made in W.P(MD)No.3469 of 2019 on the file of the Honourable Court and to allow the writ appeal.

Prayer in WP(MD). 3469/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records pertaining to the certificate of Registration of Marriage Sl.No. 733/2018 dated 03.01.2019 on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to delete and remove the same from the marriage Register.

For Appellant

: Mr.V.Thirumal

For R-1 & R-2

: Mr.M.Murugan

Government Advocate

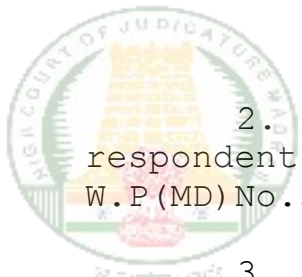
For R-3

: Mr.M.S.Suresh Kumar

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Thirumal, learned counsel for the appellant, Mr.M.Murugan, learned Government Advocate for the respondents 1 and 2 and Mr.M.Suresh Kumar, learned counsel for the third respondent.



2. This appeal has been filed by the appellant / 3rd respondent against the order passed by the learned Single Bench in W.P(MD)No.3469 of 2019, dated 27.04.2019.

3. The said writ petition was filed by the third respondent herein to quash the Certificate of Registration of Marriage, dated 03.01.2019 registered by the second respondent herein and consequently, direct the first respondent to delete and remove the same from the Marriage Register, within the period stipulated by the Court.

4. It appears that the appellant and the third respondent had known each other, which is evidenced from the photographs produced in the typed set of papers. However, it appears that the third respondent was no longer interested in him. However, it is the case of the appellant that the appellant and the third respondent got married on 14.12.2018 and that was registered before the second respondent.

5. The learned counsel for the third respondent, who is the writ petitioner contended that no such marriage took place as stated by the appellant. The learned Writ Court on hearing all the parties, more particularly the appellant herein, who is present in Court, recorded the submissions that no marriage was solemnised as stated in the Certificate and it was recorded by the learned Writ Court in paragraph No.5 of the order. After considering the factual position, more particularly that the appellant himself has stated that he is not having any proof to rebut the assertion made by the third respondent in her affidavit, the marriage registration was quashed and the writ petition was allowed.

6. The learned counsel for the third respondent submitted that the third respondent has since been married and her marriage was solemnised on 01.09.2019 at Arulmigu Meenatchi Sundareswarar Thirukovil, Madurai and to substantiate the same, a copy of the invitation is produced and the certificate issued by the temple authorities showing proof of marriage having been solemnised in the temple and the photographs taken in the temple have also been produced.

7. In such view of the matter, we do not find any ground to interfere with the order passed in the writ petition.

8. Further, we find from the averments mentioned in the typed set of papers that the appellant has enclosed a copy of the petition filed under Section 9 of the Hindu Marriage Act, 1955 in H.M.O.P.No.342 of 2019 on the file of the Family Court, Madurai, wherein the appellant claims for restitution of conjugal rights



with that of the third respondent. In paragraph No.9 of the said petition, the appellant would state that all the original certificates, namely, 10th standard, 12th standard certificates, college mark sheet and community certificate, all in original are in possession of the appellant.

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9. In the light of the said fact, we have confirmed the order passed by the learned Writ Court and we hold that the appellant has no jurisdiction to hold back the certificates of the third respondent. If still he holds back those certificates, he is liable to be proceeded criminally. Therefore, we direct the appellant to return all the original certificates and credentials of the third respondent by handing over the same to her father Mr.C.R.Kuppusamy, No.23, Siddhu Balakrishna Iyer Lane, Kamarajar Salai, Madurai -9, within a period of one week from the date of receipt of a copy of this judgment, failing which, we may be constrained to initiate *suo motu* action for contempt.

With the above observations, the writ appeal is dismissed.
No Costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

pm

To

1.The Inspector General of Registration,
100, Santhome High Rod,
Chennai - 600 028.

2.The Marriage Registrar cum
Sub Registrar,
Nilakottai Sub Registrar Office,
Nilakottai,
Dindigul District.

+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-95185[F] dated 31/10/2019)

+1 CC to M/s.V.THIRUMAL, Advocate (SR-95127[F] dated 31/10/2019)

+1 CC to M/s.SPL GP (SR-95454[F] dated 01/11/2019)

JUDGMENT MADE IN
W.A. (MD)No.1101 of 2019
30.10.2019