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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1333/2019**

DEEPAK DHULL AND ANR.

..... Petitioners

Through: Mr Rahul Jaryal, Mr Irshad Khan and
Mr Ritul Tandon, Advocates.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Ms Kritika Padode Bhandari,
Advocate alongwith Ms Neelam Rani,
LDC, SDM, Alipur.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.03.2019

1. The petitioners have filed the present petition, *inter alia*, praying that directions be issued to the respondent for registering their marriage, under Section 15 of the Special Marriage Act, 1954.
2. The petitioners were married in accordance with Hindu Vedic rites and ceremonies, which had been conducted at Narela, New Delhi on 28.03.2004. It is stated that the said marriage was arranged by the parents of the petitioners, and both the petitioners consented out of their free will and, without any force, duress, undue influence or coercion. Thereafter, on 30.12.2004, the petitioners were blessed with their first child out of the said wedlock. Their second child was born in 2007.
3. Petitioner no.1 is now residing in Germany and is desirous that petitioner no.2 also joins him in the said country.

4. In order to obtain the necessary certificate for their registration, the petitioner attempted to apply for an appointment online. However, the software did not accept the said request, as petitioner no.1 (the bridegroom) was aged 19.7 years, at the time of solemnisation of the marriage, on 28.03.2004. Thereafter, on 03.10.2018, the petitioners approached the respondent for registering their marriage. However, the same could not be done as the software system did not accept their application for the same reason that petitioner no.1 was below the age of 21 years, at the time of his marriage on 28.03.2004.

5. Section 15 of the Special Marriage Act, 1954 is relevant and is set out below:-

“15. Registration of marriages celebrated in other forms.—Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (3 of 1872), or under this Act, may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:—

(a) a ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since;

(b) neither party has at the time of registration more than one spouse living;

(c) neither party is an idiot or a lunatic at the time of registration;

(d) the parties have completed the age of twenty-one years at the time of registration;

(e) the parties are not within the degrees of prohibited

relationship:

Provided that in the case of a marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits of a marriage between the two; and

(f) the parties have been residing within the district of the Marriage Officer for a period of not less than thirty days immediately preceding the date on which the application is made to him for registration of the marriage.”

6. It is clear from the plain language of Clause (d) of Section 15 that the parties are required to have completed the age of twenty-one years, at the time of the registration of the marriage (and not at the time of the solemnisation of their marriage). Concededly, the petitioners comply with the aforesaid age requirement, as there is no dispute that as on 03.10.2018 (that is, the date on which the petitioners approached the respondent for registration of their marriage), both the petitioners were above the age of twenty-one years.

7. Ms Bhandari, the learned counsel appearing for the respondent fairly states that there is an error in the software, and efforts are being need to correct the same. She further submits that in order to avoid any further inconvenience to the petitioners, directions can be issued for issuance of a typed certificate of the registration of marriage.

8. In view of the above, the respondent is directed to register the marriage of the petitioners, and issue a typed certificate of registration of marriage, in the form as specified in the Fifth Schedule to the Special Marriage Act, 1954. The respondent is also directed to maintain the physical

records of the same, and ensure that the same are uploaded on the software system, as and when the software is rectified. Since the petitioner no.1 has to travel overseas, the requirement for the issuance of prior notice of thirty days, for registering the marriage, is also directed to be waived.

9. It is expected that the Divisional Commissioner shall take up the aforesaid matter, and ensure that the relevant software is duly rectified.

10. The petition is allowed in the aforesaid terms.

11. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

MARCH 14, 2019
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