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

+ W.P.(C) 11663/2018

ANUPRIYA SINGH

..... Petitioner

Through

Mr. Anil Kumar Chandel and
Mr. Gaurav Gambhir, Advs.

versus

REGISTAR OF MARRIAGES & ANR

..... Respondents

Through

Mr. Naushad Ahmed Khan, ASC
with Mr. Zahid and Md. Tauheed
Arshi, Advs. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.01.2019

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent no 1 (Registrar of Marriages) to register the marriage of the petitioner pursuant to of the original online application bearing No.1390313, dated 31.08.2018, under the Delhi (Compulsory Registration of Marriage) Order, 2014.
2. It is the petitioner's case that she was married to one Samuel Stephen Solomon, who is a US citizen, on 28.08.2018. She claims that the said marriage was performed at an Arya Samaj Mandir in Delhi, in accordance with Hindu customs and rituals. It is also asserted that Mr. Samuel Stephen Solomon had adopted Hinduism as his religion on the said date. The petitioner has also produced a certificate from the Arya Samaj Mandir certifying that Mr. Samuel Stephen Solomon, who was

earlier Jewish, had adopted the Hindu religion on 28.08.2018. She has also produced a certificate indicating that the marriage ceremony was performed at the Arya Samaj Mandir on 28.08.2018, in the presence of witnesses.

2. Mr. Naushad Ahmed Khan, learned counsel appearing for the respondent produced an order dated 30.08.2018, which was not served on the petitioner earlier. The said order indicates that the petitioner's application for registration of her marriage was rejected essentially on four grounds: (i) that the bridegroom's name did not indicate that he was a Hindu; (ii) that the bridegroom is a foreigner and doubts are created whether he is a Hindu; (iii) that illegal migration to a foreign country is an international crime and marriage registration requires proper scrutiny and the bridegroom fails to satisfy the Registrar; (iv) and there was haste shown by the applicant and the bridegroom in resorting to conversion and marrying on the same date.

3. Mr. Khan also referred to Section 1 (2) of the Hindu Marriage Act, 1955, and submitted that the marriage of the petitioner could not be accepted as one under the said Act, since the bridegroom (Mr. Samuel Stephen Solomon) was not domiciled in India. The said contention is unmerited. In terms of Section 1(2) of the said Act, it extends to whole of India except the State of Jammu & Kashmir. Section 2(1)(a) of the Hindu Marriage Act clearly indicates that the said Act is applicable to a person who is Hindu by religion. At the material time, Mr. Samuel Stephen Solomon was present in India and had confirmed that he had changed his religion to Hinduism. Clearly, the Registrar cannot determine the religion of a person as the decision to adopt any religion rests with the

concerned person, who has adopted the said religion.

4. Mr. Khan also referred to the procedure for registration of a marriage under Delhi (Compulsory Registration of Marriage) Order, 2014, and drew the attention of this Court to Rule 2 Paragraph 4 (e) of the said order, which requires the personal appearance of the parties along with witnesses on any date or an extended date and for the Registrar to satisfy himself of solemnization of the marriage in Delhi.

5. In the present case, the petitioner was present along with Mr. Samuel Stephen Solomon before the Registrar of Marriages. Thus, in terms of paragraph 4(e) of the Delhi (Compulsory Registration of Marriage) Order, 2014, the Registrar was required to conduct the necessary enquiries to satisfy himself regarding solemnization of the marriage between the petitioner and Mr Solomon. If he had any doubts regarding whether Mr Solomon had adopted Hinduism as his religion, he could make the necessary enquiries including from the concerned Arya Samaj Mandir that had certified the same. However, it is apparent from the order that he failed to take any such steps. Concededly, no such enquiry was conducted from the Arya Samaj Mandir (the details of which were provided to the Registrar) for the purpose of satisfying himself that the petitioner and the bridegroom had, in fact, solemnized their marriage in accordance with Hindu rites.

4. The contention that it is necessary for a person to change his name to suggest that he had converted to Hinduism, is bereft of any merit. There is no requirement for a Hindu to ensure that his name sounds like one. While it is noted in the order dated 31.08.2018, that registration involving foreign citizens needs to be scrutinized properly, however, it is

apparent that the Registrar has only proceeded on surmises and conjectures without conducting any objective inquiry.

5. In view of the above, the order dated 31.08.2018 cannot be sustained and is set aside.

6. The Registrar shall conduct a proper enquiry to satisfy himself regarding solemnization of the marriage of the petitioner with Mr. Samuel Stephen Solomon and communicate the same to the petitioner. The Registrar is at liberty to issue public notice, if he deems fit.

7. Unless the statement made by the petitioner that her marriage was solemnized in accordance with Hindu rites at the Arya Samaj Mandir, or the bridegroom had voluntarily adopted Hinduism, as certified by the Arya Samaj Mandir, is found to be incorrect, he shall also inform the date on which the petitioner and Mr. Samuel Stephen Solomon would appear before him for registration of their marriage. At least 21 days prior notice for the date so fixed shall be given to the petitioner in order for Mr. Samuel Stephen Solomon (the petitioner's husband) to make his travel arrangements.

8. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

JANUARY 30, 2019
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