

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.23585 of 2019

Vidhya

Through her father and the power of attorney
Mr.Siddhaya Babu Naidu,
reisdng at No.J1, Shanthi Colony,
Near Ring Sector,
Madhavaram,
Chennai - 60.

.... Petitioner

vs

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 28.

2. The Sub-Registrar,
Registrar of Marriage,
Sub-Registrar Office,
Sembium,
Chennai - 600 011.

3. Ramamoorthy Jayakrishnan,
No.7, Lakshmi Amman Koil Street,
Thadaperumbakkam,
Ponneri,
Thiruvallur - 601 204.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 2nd respondent to cancel the marriage registration of the petitioner entered in Serial No.150 of 2012 dated 20.03.2012 in the office of the 2nd respondent, pursuant to the certificate of divorce absolute issued by the Court of Probate and Family at Massachusetts, USA in view of Section - 13 & 14 of the Civil Procedure Code.

For Petitioner : Mr.P.Britto

For Respondents : Mr.B.Kannan,
Government Advocate for R1 & R2
No appearance for R3

O R D E R

The petitioner seeks for Mandamus to direct the 2nd respondent to cancel the marriage registration of the petitioner entered in Serial No.150 of 2012 dated 20.03.2012 in the office of the 2nd respondent, pursuant to the certificate of divorce absolute issued by the Court of Probate and Family at Massachusetts, USA in view of Section - 13 & 14 of the Civil Procedure Code.

2. The case of the petitioner is as follows:

She got married with one Jayakrishnan, son of 3rd respondent on 11.03.2012 at Thirumala, Andhra Pradesh. The said marriage was registered in the 2nd respondent office on 20.03.2012 under Serial No.150/2012. After the said marriage, the petitioner was leading her matrimonial life in USA with her husband. However, the petitioner and her husband jointly obtained a decree for divorce on mutual consent from the Court of Probate and Family at Massachusetts on 05.11.2018 and a certificate of divorce absolute was issued on 04.02.2019. The petitioner decided to remarry. For that purpose, she sought to remove the earlier registration of marriage at the office of the 2nd respondent. Hence, she made a request for cancelling the earlier registration. As it is not considered, the present writ petition is filed before this Court.

3. The 2nd respondent filed a counter affidavit, wherein it is stated that as per the circular dated 28.10.2013, issued by the Inspector General of Registration, a foot note entry of the divorce decree in the marriage register can be made.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.

5. There is no dispute to the fact that the marriage took place between the petitioner and the said Jayakrishnan, son of the 3rd respondent on 11.03.2012 and the said marriage was registered with the 2nd respondent on 20.03.2012 under Serial No.150/2012. It is not disputed by the petitioner that the divorce decree was granted on mutual consent by the Foreign Court on 05.11.2018 followed by issuing a Certificate of Divorce dated 04.02.2018. Based on the said Divorce Decree, the petitioner seeks to cancel the registration of the marriage that took place on 11.03.2012. I am of the view that the register maintained by the 2nd respondent has only recorded the factum of marriage that took place on 11.03.2012 by issuing a Certificate as well. If the marriage was subsequently dissolved as a result of a decree passed by the competent Court, the factum of the

marriage, that took place earlier, cannot vanish. On the other hand, as rightly pointed out by the learned counsel for the 2nd respondent, the subsequent development, namely Decree for Divorce granted can be recorded as a foot note in the said register under the relevant entry made in respect of the marriage that took place between the petitioner and her erstwhile husband, namely Jayakrishnan. Since the 2nd respondent has come forward to do that exercise, this Court is of the view that this Writ Petition can be disposed of only by directing the 2nd respondent to make such foot note and issue communication to that effect to the petitioner accordingly. The said exercise shall be done by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 28.

2.The Sub-Registrar,
Registrar of Marriage,
Sub-Registrar Office,
Sembium,
Chennai - 600 011.

+1 CC to Mr.P.Britto, Advocate, sr 23129

+1 CC to Government Pleader, sr 23691

KS (CO)

AT (22/05/2020)

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