

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-01-2020

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Writ Petition No. 35770 of 2019

A. Rajamanickam

.. Petitioner

Versus

Chair Person
State Human Rights Commission
Tamil Nadu
No.143, P.S. Kumarasamy Raja Salai
(Greenways Road)
Chennai - 600 028

.. Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the record of the impugned order dated 29.10.2019 in SHRC Case No. 1646 of 2017 on the file of the respondent and quash the same as illegal, incompetent and unconstitutional and further direct the respondent to take action in accordance with law against the Sub-Registrar, Salem.

For Petitioner : Mr. J. Sudhakaran
For Respondent : Mr. S. Wilson

ORDER

(Order of the Court was made by R. Subbiah, J)

The petitioner calls in question the order dated 29.10.2019 passed by the State Human Rights Commission, Tamil Nadu in SHRC Case No. 1646 of 2017 and for a consequential direction to direct the Commission to take appropriate action against the Sub-Registrar, Salem.

2. In the affidavit filed in support of the writ petition, the petitioner has stated that his son Manikandan married one Maheswari on 26.11.2012 and the same was registered under Serial No. 4915 of 2012 on the file of Sub-Registrar, Salem. According to the petitioner, after the marriage of his son with the

aforesaid Maheswari, it came to light that Mrs. Maheswari earlier married one Azhagesan on 29.01.2010 and it was registered under Serial No. 1187 of 2010 before the Sub-Registrar, Salem. It is the contention of the petitioner that in the Marriage Register maintained by the office of the Sub-Registrar, Salem, the marriage between the petitioner's son Manikandan and Maheswari is indicated as "first marriage". According to the petitioner, the said Maheswari had suppressed her earlier marriage with Alagesan and contracted the marriage with his son, which is contrary to the provisions of the Hindu Marriage Act. It is the grievance of the petitioner that the Sub-Registrar, Salem has not properly verified the concerned register which led to the marriage of his son Manikandan with Maheswari. Therefore, the petitioner has filed a complaint before the respondent praying to take action against the Sub-Registrar, Salem on the ground that the action of the Sub-Registrar in not verifying the Marriage Register with respect to the factum of earlier marriage between Maheswari and Alagesan is a violation of Section 12 (ii) of Protection of Human Rights Act.

3. The complaint dated 18.02.2017 preferred by the petitioner was forwarded by the Commission to the Inspector General of Registration, directing him to cause an enquiry by appointing an officer not below the rank of Assistant Inspector General and to submit a report. Accordingly, an enquiry was conducted by the District Registrar, Salem West during which the statement of the petitioner, his son, the above said Maheswari, the witnesses to the marriage as well as the Executive Officer of Arulmighu Prasanna Venkatramanswamy Temple where the marriage of the petitioner's son was solemnised with Maheswari. During the course of such enquiry, the said Maheswari has stated that out of the wedlock between the petitioner's son and herself, a male child was born on 14.11.2013. She also stated that the petitioner was instrumental for the matrimonial dispute between her and the son of the petitioner. She also stated that she was subjected to matrimonial cruelty and therefore, a complaint was given to the Hasthampatti Police Station. She also stated that the petitioner's son has filed a Petition in FCOP No. 517 of 2013 on the file of Family Court, Salem and it is pending.

4. On the basis of the aforesaid report, the Commission concluded that the earlier marriage of Maheswari with Alagesan was dissolved by a Decree of divorce dated 06.07.2012 passed in HMOP No. 25 of 2011 on the file of Family Court, Salem and thereafter, the marriage of the petitioner's son was solemnised with Maheswari. Therefore, the Commission concluded that the marriage between the petitioner's son and Maheswari is valid. The Commission also concluded that the registration of the marriage of the petitioner's son with Maheswari by the Sub-

Registrar, Salem, therefore, cannot be construed as a human rights violation. Therefore, the Commission, while closing the complaint given by the petitioner has directed the petitioner to work out his remedy in the pending HMOP No. 517 of 2013 filed by his son. Aggrieved by such order dated 29.10.2019 of the Commission, the petitioner has come up with this writ petition.

5. We have heard the counsel for the petitioner and perused the records, including the order dated 29.10.2019 passed by the Commission. We find that absolutely there is no merit in the contentions urged by the petitioner. The Commission has rightly concluded that the earlier marriage of Maheswari with one Alagesan was dissolved by a decree of divorce dated 06.07.2012 passed in HMOP No. 25 of 2011 and thereafter, the marriage of the petitioner's son was solemnised on 26.11.2012. Further, the Sub-Registrar, Salem on perusal of the Decree dated 26.11.2012 passed in HMOP No. 25 of 2011, has registered the marriage solemnised between the petitioner's son and Maheswari and therefore there was no negligence attributable on the part of the Sub-Registrar, Salem in registering the factum of marriage solemnised between the petitioner's son and Maheswari. These factual aspects were rightly appreciated by the Commission and closed the complaint preferred by the petitioner. We find no reason to interfere with the order dated 29.10.2019 passed by the Commission holding that there is no violation of human rights on the part of the Sub-Registrar, Salem in registering the marriage of the petitioner's son with Maheswari.

6. It is to be pointed out that even in the affidavit filed in support of the present Writ Petition, the petitioner has not disclosed about the Order dated 06.07.2012 passed in HMOP No. 25 of 2011 on the file of Family Court, Salem dissolving the marriage solemnised between the said Maheswari and Alagesan. The petitioner also did not disclose about the enquiry conducted by the District Registrar in which he and his son have participated. Further, it is an admitted fact that the petitioner's son has filed HMOP No. 517 of 2013 before the Family Court, Salem relating to the matrimonial dispute between him and his wife Maheswari. In all fairness, the petitioner ought to have disclosed the aforesaid facts while assailing the order dated 29.10.2019 passed by the Commission. However, in the affidavit filed in support of the writ petition, none of these factual aspects have been disclosed and the writ petition is bereft of any material particulars. We therefore find that the petitioner is guilty of suppression of material facts. We hasten to add that this writ petition is nothing short of an abuse of process of law engineered at the instance of the petitioner and therefore it is liable to be dismissed with exemplary costs. However, we wish to observe that the petitioner alone cannot be blamed for filing the present

vexatious petition and having regard to the same, we refrain from imposing any costs.

7. In the result, the writ petition is dismissed confirming the order dated 29.10.2019 in SHRC Case No. 1646 of 2017 on the file of the respondent. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

Chair Person
State Human Rights Commission
Tamil Nadu
No.143, P.S. Kumarasamy Raja Salai
(Greenways Road)
Chennai - 600 028

+lcc to Mr. S. Wilson, Advocate sr.2090

WP No. 35770 of 2019

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