



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.7405 of 2020

Vallikannu

... Petitioner

Vs.

The Sub Registrar,
Tiruppathur Registrar Office,
Tirupathur,
Sivagangai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent to cancel the Marriage Registration Certificate in Sl.No.274/2013 registered on 16.12.2013 based on the Marriage dissolve Fair order in Divorce Petition No.WA-33-81-02/2018, dated 24.05.2019 and Degree order, dated 22.01.2020 on the file of the High Court of Malaysia at Kulalamput in the federal territories, Malaysia Family Division and the representation, dated 22.06.2020 and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner	: Mr.S.Sivaprakash
For Respondent	: Mr.V.Anand
	Government Advocate
	: Mr.Palaniyappan
	for Mr.Jeyamohan

ORDER

This Writ Petition is filed to direct the respondent to cancel the Marriage Registration Certificate in Sl.No.274/2013 registered on 16.12.2013, based on the Marriage dissolve Fair order in Divorce Petition No.WA-33-81-02/2018, dated 24.05.2019 and Decree order, dated 22.01.2020 on the file of the High Court of Malaysia at Kulalampur in the federal territories, Malaysia Family Division and the representation, dated 22.06.2020.

2.Heard Mr.S.Sivaprakash, learned counsel appearing for the petitioner, Mr.V.Anand, learned Government Advocate appearing for the respondent and Mr.Jeyamohan, learned counsel appearing for the impleaded respondent.

3.Mr.Palaniyappan, learned counsel representing for Mr.Jeyamohan, submitted that impleading petitioner has filed an

<https://hcservices.ecourts.gov.in/hcservices/>



application to implead them as necessary parties, but the same is un-numbered stage.

4. According to the petitioner, on 16.12.2013, the petitioner married one Palaniyappan @ Sockalingam, who is now a Malaysian citizen and due to the wedlock, she begotten a female baby viz., Isha Rukmani and now they are residing at Malaysia. Due to misunderstanding between them, they are living separately with no hope of reunion. Therefore, they have approached the High Court of Malaysia at Kulalampur, in the federal territories, Malaysiya Family Division and filed a Divorce Petition No.WA-33-81-02/2018 and the marriage was dissolved on 24.05.2019. The decree was passed on 22.01.2020. Thereafter, the petitioner came to India for the purpose of cancelling the Marriage Registration Certificate. In this regard, the petitioner has issued a legal notice through the counsel to the respondent on 06.02.2020 with all relevant documents. So far no action has been taken, the petitioner made a representation on 22.06.2020. Since no action has been taken, the petitioner is before this Court.

5. The learned Government Advocate, appearing for the respondent has filed a counter affidavit wherein in paragraph Nos.4 and 5 are extracted hereunder:

"4.It is respectfully submitted that as per the circular No.07/2013 dated 28.10.2013 of the Registrar General, Chennai, the Sub-Registrar Concerned, who is the competent authority to cancel the registration of Marriage, ought to be made as a party to the divorce proceedings or the certified copy of the order of divorce ought to have been served on the registering authority through the Court which granted divorce, but, as for as the present case is concerned, neither was the respondent impleaded as a party to the divorce proceedings nor was served on him any Court order. Thus, the respondent is not bound by the mere photocopy of the divorce order produced by the petitioner which was not even produced.

5.Further, it is respectfully submitted that the petitioner has made only her representation even without enclosing any testimonials for cancelling her marriage registration. Hence, the representation was returned for carrying out the defects. Even though the petitioner is prepared to re-present her representation along with testimonials as mentioned therein the respondent has to verify and ensure the genuineness and reality of the divorce as per the circular mentioned above and thereupon only will be able to cancel the said marriage registration. As such, the writ petition is a premature one."



6.The learned counsel appearing for the petitioner has agreed to re-present the said representation along with relevant documents as mentioned by the respondent.

7.In view of the submissions made on either side, this Court directs the petitioner to re-present the application dated 22.06.2020 along with relevant documents to the respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the second respondent shall consider the said representation and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably, within a period of twelve weeks thereafter. If any additional representation is made by the petitioner, the same shall be submitted to the respondent within one week from the date of receipt of the order.

8.With the above directions, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsd/Ns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub Registrar,
Tiruppathur Registrar Office,
Tirupathur,
Sivagangai District.

+1 CC to Spl GP (SR-13948[F] dated 13/08/2020)

W.P. (MD)No.7405 of 2020
12.08.2020

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