

206

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(Through Video Conferencing)

CWP-8380-2020

Date of Decision: August 10, 2020

Adil Mirza

.....Petitioner

Versus

Union Territory Chandigarh

.....Respondent

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Vivek Shakun, Advocate
for the petitioner.

Mr.Namit Kumar and Mr.Alankrit Bhardwaj, Advocates
for the respondent-UT, Chandigarh.

.....

NIRMALJIT KAUR, J.

The petitioner herein is seeking a direction to the official respondent to declare the marriage of the petitioner as legally effective, recognized and valid in view of marriage certificate issued by Sub Divisional Magistrate-cum-Marriage Officer of Union Territory, Chandigarh.

It is contended that the notice for solemnization of marriage under the Special Marriage Act, 1954 (for short, 'the 1954 Act') was given by the petitioner and Rijuta Varma to the respondent on 11.06.2009. Copy of the same has been placed on record as Annexure P-1. The respondent issued notice dated 11.06.2009 under Section 5 of the 1954 Act for solemnization of marriage to the general public with regard to raising any objection on or before 10.07.2009. Copy of the same is placed on record as

Annexure P-2. No objection was raised by the general public with regard to solemnization of marriage of petitioner with Rijuta Varma. In this respect, verification was also done by the Senior Superintendent of Police, Chandigarh and found that the wife of the petitioner, namely, Rijuta Varma was residing at H.No.1059, 1st Floor, Sector 37-B, Chandigarh since the year 1990 and her date of birth is 20.10.1981. Copy of verification report issued by Senior Superintendent of Police, Chandigarh is placed on record as Annexure P-3. Since the day of solemnization and registration of the marriage of the petitioner and Rijuta Varma, they are living together as happily married and one daughter namely Inaaya Mirza too was born out of the marriage between the petitioner and Rijuta Varma on 26.12.2013 at Chandigarh. Copy of the birth certificate of the daughter is placed on record as Annexure P-5.

In spite of the above, the petitioner has been forced to file the present writ petition seeking a declaration that marriage of the petitioner is legally effective, recognized and valid. Thereafter, the German Consulate in Mumbai granted visa to the wife of the petitioner, namely, Rijuta Varma, who had got a job offer from Linde Gas as a Pharmacovigilance Auditor based out of their headquarter in Munich, Germany but when the petitioner, who is the husband of Rijuta Varma applied for family re-union Visa on 27.12.2019, he was directed by the German Consulate in Mumbai for a new marriage certificate by raising the following objection:-

“Current marriage certificate is not accepted as it was noticed that some of the provisions of the Special Marriage Act (under which you have registered your marriage) were not fulfilled. Hence, we need a new marriage certificate.”

Reply has been filed by the respondent-Sub Divisional

Magistrate(s)-cum-Marriage Officer, being the appropriate authority. As per the said reply, the marriage certificate of the petitioner was valid and in accordance with the 1954 Act. The operative part of the said reply reads as under:-

“The petitioner and his wife applied for solemnization of marriage under Section 5 of Special Marriage Act, 1954 and a notice was issued on 11.06.2009 to the general public so if there is any objection to it the same be filed in the Court of Sub divisional Magistrate (south), U.T., Chandigarh and after the publication and non-receipt of objection and obtaining Police Verification Report in support of the residence of the petitioner, the marriage certificate was issued vide Sr.No.035 dated 18.08.2009 and the respondent has followed the due and proper procedure as laid down under the provisions of the Special Marriage Act, 1954 before issuing the said certificate. The marriage certificate of the petitioner is already declared valid and recognized as per the provisions of the Special Marriage Act, 1954 and there is no need of further direction to declare the said certificate as valid.”

From the above, it is evident that certificate of marriage was issued by the respondent after the verification and nodal formalities of the provision of special Marriage Act, 1954 and the same was issued on the basis of documents/information supplied by the petitioner and the verification received from the police authorities. Thus, the marriage certificate of the petitioner being legal and valid is duly confirmed.

Therefore, in view of the above facts, this Court has no inhibition in declaring that the Marriage Certificate, Annexure P-4, issued on 18.08.2009 between Dr.Adil Mirza s/o Mr.A.J.Mirza and Dr.Rijuta Varma

Marriage Act, 1954.

Disposed of as above.

August 10, 2020
meenuss

(NIRMALJIT KAUR)
JUDGE

- 1. Whether speaking/reasoned ?
- 2. Whether reportable ?

Yes/No
Yes/No