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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-10-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.2965 of 2016

And

WMP No.2451 of 2016

A.T.Zeba Parveen

..

Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Chief Secretary to Government,
Fort St. George,
Chennai - 600 009.

2.The State of Tamil Nadu,
Represented by its Secretary to Government,
Home Department,
Fort St. George,
Chennai - 600 009.

3.The Marriage Registrar-cum-Sub-Registrar,
Chennai North,
Office of the District Registrar,
Chennai North.

4.Muhammad Rishad

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, declaring that the registration of the alleged marriage between the petitioner and the fourth respondent and issuance of the Certificate of Registration of Marriage dated 21.04.2015 in Marriage Sl.No.1230 of 2015 by the third respondent is contrary to law, null and void and not binding on the petitioner.

For Petitioner : Mr.T.Sai Krishnan for
M/s.Sai Bharath.

For Respondents-1 to 3 : Mr.C.Kathiravan,
Government Advocate.

For Respondent-4 : Mr.R.Sathya Narayanan



O R D E R

The writ on hand has been instituted to declare the registration of the alleged marriage between the petitioner and the fourth respondent and the issuance of the Certificate of Registration of Marriage dated 21.04.2015 in Marriage Sl.No.1230 of 2015 by the third respondent is null and void and not binding on the petitioner.

2. The petitioner states that she is the native of Cochin, Ernakulam, State of Kerala and she was born and brought up at Cochin. The petitioner is a Graduate of B.Sc., (Visual Communication) and completed her Master Degree in Fine Arts during the year 2014.

3. The series of allegations raised in the affidavit filed by the petitioner against the fourth respondent, need not be considered by this Court at this juncture, in view of the fact that the petitioner and the fourth respondent are present before this Court and the Court found that the petitioner got married to one Mr.Ejas Vahid on 24.11.2016 and now she is living happily with her husband.

4. The Marriage function Photos and the Certificate of Marriage issued by the Registrar of Marriages are also placed before this Court. The photographs of the marriage functions were also placed to establish that the petitioner has already got married the abovesaid Mr.Ejas Vahid and, is living with him for the past about 5 years at Kerala.

5. This being the factum now established after the lapse of about five years from the date of filing of the present writ petition, this Court has to consider the issues in a pragmatic way, as it involves the personal life of the petitioner and the fourth respondent.

6. The fourth respondent, who is physically present before this Court also raised certain allegations and further contended that the allegations raised by the petitioner are false and incorrect. However, this Court suggested that there is no point in adjudicating those allegations before the High Court in the writ proceedings under Article 226 of the Constitution of India and the writ petition has been filed challenging the legal validity of the registration of the marriage and the consequential Certificate issued by the Registrar of Marriage.

7. The learned counsel appearing on behalf of the fourth respondent pointed out that the petitioner has filed false complaint against the fourth respondent and the Kerala



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Police conducted investigations and dropped all the allegations against the fourth respondent and recorded that the complaint itself is a mistake of fact. By making such submission, the learned counsel for the fourth respondent reiterated that the petitioner has not come forward with the correct facts and therefore, the writ petition is to be rejected.

8. It is relevant to consider the validity of registration of the marriage between the petitioner and the fourth respondent and the Certificate of Registration issued by the Competent Authority. Tamil Nadu Registration of Marriages Act, 2009 [hereinafter referred to as the 'Act', in short], Section 5 sub-section (1) of the Act, enumerates Memorandum of Marriage states that "the parties to a marriage shall prepare a memorandum of marriage in such Form as may be prescribed in duplicate and shall deliver it in person or send in the manner as may be prescribed, to the Registrar of the area where the marriage is performed within ninety days from the date of the marriage. Provided that the memorandum may be delivered or sent to the Registrar within a further period of sixty days after the expiry of the said ninety days with the payment of additional fee as may be prescribed."

9. Relying on the said provision of the Act, the learned counsel for the petitioner reiterated that as per the Form submitted by the petitioner and the fourth respondent, the date of marriage was solemnised as 20.12.2013. However, the registration of the marriage was made on 21st April, 2015. Thus, the marriage was registered beyond the period as contemplated under Section 5 sub-section (1)(a) of the Act and thus the registration of the marriage is invalid.

10. The learned counsel for the fourth respondent disputed the said contention of the learned counsel for the petitioner by stating that the date of marriage was mistakenly stated in the Form and in Form-II, enclosed along with the original Form indicates that the date of marriage was on 21.04.2015. Thus the date mentioned in the main Form is to be considered as a typographical mistake and the said date need not be considered as a valid date of marriage for the purpose of registration. But no steps were taken to amend the incorrect date of marriage. It is an admitted fact that the date of marriage mentioned by the petitioner and the fourth respondent in the Declaration Form remains as 20.12.2013.

11. The Tamil Nadu Registration of Marriages Rules, 2009 [hereinafter referred to as the 'Rules', in short], would be relevant to consider the above issue. Rule 5 deals with the procedure for registration of marriage and it reads as under:-

"5. Procedure for Registration of



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Marriage.--(1) (a) Every memorandum for registration of marriage shall be in Form-I or Form-I-A (in the case of persons whose marriage was solemnised under Muslims Personal Law) and it shall be delivered in person or sent to the Registrar along with an application in Form-II within ninety days from the date of marriage. Form-I and Form-I-A shall be supplied free of cost to the parties to a marriage by the Registrar."

12. As per Rule 5 of the Tamil Nadu Registration of Marriages Rules, 2009, stated above, every memorandum of registration of marriage shall be in Form I-A, in the case of persons whose marriage was solemnised under Muslims Personal Law. Thus, it is clear that Form I is not applicable as far as the alleged marriage between the petitioner and the fourth respondent is concerned. Both the petitioner and the fourth respondent are Muslims and thus, Form I-A must be submitted for the purpose of registration of marriage.

13. Form I-A with reference to Rule 5(1) (a) of the Rules, which is extracted as under:

FORM I-A.
(See Rule 5(1) (a)]

Memorandum for Registration of Marriage
Name and Address of the Jamath conducted the marriage:

1. Bride Grooms Details:

Bridegroom's Name.
(as in School Certificate)

Bridge-
Groom
Photo

Age.
Address

2. Passport Number (if applicable)

Additional information about
bridegroom including occupation.
Name and Age.
Address

3. Bridegroom's Mother Details:

Name and Age.
Address.

4. Bridge Details:

Bride's Name.

(as in School Certificate).

Bride
Photo



Age.
Address.

Passport Number (if applicable)
Additional information
about Bride including occupation

5.Bride's Father Details:

Name and Age.
Address.

6.Bride's Mother Details:

Name and Age.
Address.

7.Details about Mahar.

8.Other Details:

Name and address of the
Khazi/Imam who
conducted the marriage.
Date and time of the marriage.
Full address of the venue of marriage.
Signature of the Khazi/Imam

Signature of the Bridegroom
Signature of the Bride.

9.Details about Vali (Guardian of Bride):

Name of the Vali	
Vali's Father Name	
Relationship	
Address	
Signature of Vali.	

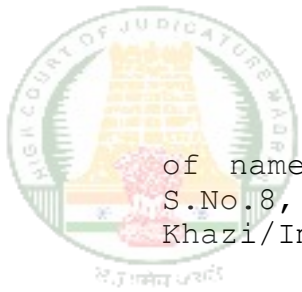
10.Vakils (representative of Vali) Details:

Name	Father Name	Address	Signature

11.Details about witnesses:

No.	Name	Father Name	Address	Signature
1.				
2.				

In the abovesaid Form, wherein Serial No.1 requires mentioning



of name and address of the Jamath conducted the marriage and S.No.8, requires mentioning of name and address of the Khazi/Imam, who conducted the marriage.

14. Perusal of the abovesaid Columns, namely, Serial Nos.1 and 8, would reveal that these requirements are mandatory for the purpose of registration of marriage as the prescribed Form is part and parcel of the Rules itself.

15. The Form and the Certificate filed by the petitioner and the fourth respondent, and the Certificate, which is enclosed along with the typed set of papers filed on behalf of the petitioner portrays that the the petitioner and the fourth respondent filed Form I instead of Form I-A.

16. Form-I does not contain any such details regarding the Jamath, who conducted the marriage. The details of name and address of Khazi/Imam, who conducted the marriage. Therefore, when the law prescribes the particular manner in which the Forms are to be submitted. It is to be construed that such details required are to be given in the same manner and therefore, it is clear that the petitioner and the fourth respondent had not submitted the form in a proper manner as required under the provisions of the Act and the Rules. Even in Form-I submitted by the petitioner and the fourth respondent, in Column 7, the date on which the marriage was solemnised is stated as 20.12.2013. In Column 5, the name and address of the Priest, who solemnised the marriage is mentioned. In the said Column, the name of the petitioner's father has been stated.

17. It is an admitted fact that the petitioner and the fourth respondent were in love affair for sometime and it was not known to the family of the petitioner. Therefore, the learned counsel for the petitioner made a submission that it was erroneously stated and the father of the petitioner who was not aware of these facts. Thus, in Column 5 also erroneously stated and the date of marriage was mentioned as 21.12.2013 and beyond all in Column 10, one witness by name Ms.E.Jayapriya had not put her signature. Thus, an incorrect Form was admitted by the Competent Authority/Registrar of Marriage and based on such incorrect particulars, the marriage was registered.

18. The learned counsel for the petitioner made a submission that during the relevant point of time, there were lot of fraudulent marriages and the Hon'ble Division Bench of this Court, in several occasions, made an indication that the marriages conducted in an improper manner, are solemnised in the presence of the Advocate, without following the procedures, cannot be considered as valid marriages.



19. However, this Court is of an opinion that such details require examination of documents and evidences and this Court cannot go deep into such details, in view of the fact that the writ petition is entertained only to examine the legal validity of the certificate of registration of marriage. Thus, it is made clear that several disputes raised between the parties required no further adjudication and the criminal case filed by the petitioner against the fourth respondent was also closed as mistake of fact and admittedly, both the petitioner and the fourth respondent are living separately and the petitioner could not be able to establish that she got married and living happily with one Mr.Ejas Vahid for about five years.

20. This being the factum established, this Court is of an opinion that the Marriage Certificate issued by the third respondent Marriage Registrar-cum-Sub Registrar based on incorrect application, which is not in consonance with the mandatory requirements as contemplated under the Act and the Rules, is null and void and not in accordance with the procedures as contemplated for registration of marriage.

21. Beyond this, there is no scope for re-union of parties as admittedly, the petitioner got married to another person and living with him for about five years and therefore, in the interest of the parties, this Court summoned the petitioner and the fourth respondent and on ascertaining the facts, this order is passed.

22. Admittedly, the fourth respondent is now working in Bangalore and the fourth respondent has no contact with the petitioner for about five years. Under these circumstances, either of the parties shall understand that complicating the issues any further will be of no avail for the betterment of their life and they are expected to understand the practicality involved in the life and look forward for their better future.

23. This being the facts and circumstances established, this Court is inclined to pass the following orders:-

(1) The impugned Certificate of Registration of Marriage, issued by the third respondent on 21.04.2015 in Marriage Serial No.1230 of 2015 is null and void and not in accordance with the procedures as contemplated under the provisions of the Act and the Rules.

(2) The fourth respondent is restrained from interfering with reference to the alleged marriage solemnised between the petitioner and the fourth respondent, as the Marriage Certificate issued by the Competent Authority is declared as null and void.



24. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chief Secretary to Government,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Fort St. George,
Chennai - 600 009.

3.The Marriage Registrar-cum-Sub-Registrar,
Chennai North,
Office of the District Registrar,
Chennai North.

+lcc to Mr.T.Saikrishnan, Advocate, S.R.No.53292

+lcc to the Government Pleader, S.R.No.53503

+lcc to Mr.R.Sathya Narayanan, Advocate SR. No.53975 (07/12/2021)

WP 2965 of 2016

KSM(CO)
GN(01/11/2021)