

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HONOURABLE M.R.JUSTICE ABDUL QUDDHOSE

W.P. No.13926 of 2019

Solaiya Banu

... Petitioner

Vs.

1.The Marriage Officer,
Sub Registrar Office, Royapuram,
Chennai - 600 021.

2.Arulraj ...Respondents
(R2 impleaded as per order
dated 31.10.2019 made in
WMP.No.26087 of 2019)

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the first respondent to register petitioner's marriage under Special Marriage Act, that pending in respondent office in reg.No.NSM/Online/1236456 by accepting medical age estimation report in substitute of birth proof.

For Petitioner ... Mr.C.H.Vinobha Gandhi

For Respondents Mr.T.M.Pappaiah,
Special Government Pleader

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the first respondent to register the petitioner's marriage under Special Marriage Act, which is pending with the respondent office in respect of Reg.No.NSM/Online/1236456/2019 by accepting medical age estimation report in substitute of birth proof within a time frame to be fixed by this Court.

2. It is the case of the petitioner that she belongs to a family which migrated from Burma to Chennai in the year 2010. According to the petitioner, at the time of migrating to Chennai from Burma, the petitioner's mother had not arranged to collect School certificate or birth certificate from the school in Burma where the petitioner

had earlier studied. According to the petitioner, she fell in love with D.Arulraj, a Hindu and she married him. According to the petitioner, the marriage was solemnized on 23.08.2018 at Arulmigu Sri Renuka Devi Amman Thiru Kovil, Tondiarpet, Chennai - 81 in the presence of elders as per Hindu customs. According to the petitioner, after her marriage, both of them were practising their respective religious without any conversion. It is the case of the petitioner that she submitted all the related papers through online before the first respondent for registration of her marriage with D.Arulraj under the Special Marriage Act on 01.03.2019. According to the petitioner, on the same date i.e., on 01.03.2019, the petitioner, her husband and his parents along with proper witnesses appeared before the first respondent office and submitted all the original documents for verification. According to the petitioner, she and her husband were directed to appear in person by the first respondent on 01.04.2019. However, according to the petitioner on 01.04.2019, the first respondent office intimated the petitioner that they will not consider the petitioner's application for registration of marriage, unless and until the petitioner is able to produce the school leaving certificate or transfer certificate or birth certificate which is necessary for age proof. The case of the petitioner is that she does not have any of those documents and the Aadhar card is an authentic document which will prove her age. Since the first respondent failed to accept the documents submitted by the petitioner and failed to register her marriage, the petitioner has filed this writ petition seeking for a mandamus to the first respondent to consider her application for registration of her marriage with D.Arulraj based on the available documents submitted by her.

3. Heard Mr.C.H.Vinobha Gandhi, learned counsel for the petitioner and Mr.T.M.Pappaiah, learned Special Government Pleader for the first respondent.

4. Admittedly, no final orders has been passed by the first respondent on the petitioner's application seeking for registration of her marriage with D.Arulraj under the Special Marriage Act. According to the petitioner, she has produced Aadhar Card before the first respondent along with her application seeking for registration of marriage with D.Arulraj. Aadhar Card is an authentic document which reveal the date of birth of the petitioner. No prejudice will be caused to the respondents, if the first respondent takes into consideration the Aadhar card for the purpose of

ascertaining the date of birth of the petitioner that too, when the petitioner is not having the transfer certificate or school leaving certificate or birth certificate in view of the fact that she has migrated along with her family members from Burma in the year 2010. On proper verification and after proper enquiry, the first respondent shall pass final orders on the petitioner's application seeking for registration of her marriage with D.Arulraj.

5. For the foregoing reasons, this Court directs the first respondent to consider the petitioner's application dated 01.03.2019 seeking for registration of her marriage with D.Arulraj under the provisions of Special Marriage Act after giving due consideration to the Aadhar card submitted by her which would reveal the date of birth of the petitioner and pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this Order.

6. With the aforesaid direction, this writpetiton is disposed of. No costs.

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub Assistant Registrar

To

The Marriage Officer,
Sub Registrar Office, Royapuram,
Chennai - 600 021.

+1cc to M/s.C.H.Vinobha Gandhi, Advocate Sr.No.4102

+1cc to The Government Pleader Sr.No.4585

AKM/11.02.21 /3P-4C/

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