



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD) .No.15791 of 2020

and

W.M.P (MD) No.13237 of 2020

T.Beril Lynora

...Petitioner

Vs.

1.The District Registrar (Administration),
Thoothukudi.

2.The Registrar of Marriages/Sub-Registrar,
Thoothukudi Keelur,
Thoothukudi.

3.N.Darwin

4.Fr.Franklin Fernando,
Parish Priest & Correspondent,
St.Xavier's Church,
Punnaikayal-628 151,
Thoothukudi District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the first respondent in O.Mu.No.4601/Aa3/2020 dated 21.09.2020 and the entire records relating to Marriage Sl.No.241/2017 dated 16.08.2017 on the file of the second respondent and quash the same and further directing the second respondent to remove the same from the records.

For Petitioner	: Mr.M.P.Senthil
For R-1 and R-2	: Mr.M.Lingadurai Government Advocate
For R-3	: Mr.Josephzinoson
For R-4	: Mr.Johnkennedy

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 21.09.2020.

2.The case of the petitioner is that while she was studying in Higher Secondary School in the year 2014-2016, she got acquainted with the third respondent. During the relevant point of time, the



petitioner was aged about 17 years and the third respondent was aged about 22 years.

3.It is the further case of the petitioner that the third respondent mislead the petitioner and took her to the Sub Registrar Office and made her sign in certain documents and later the petitioner came to know that the third respondent had registered the marriage between the petitioner and the third respondent. According to the petitioner, during the relevant point of time, she was aged about 17 years and therefore, the entire marriage was invalid in the eye of law.

4.The petitioner made a representation/application before the first respondent seeking for cancellation of the registration on the ground that the entire registration was invalid, since no marriage took place between the petitioner and the third respondent. The first respondent rejected the application and directed the petitioner to seek for an appropriate remedy before the competent Court. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The learned counsel for the petitioner submitted that the entire process that was undertaken by the second respondent in registering the marriage was illegal and contrary to the provisions of the Tamilnadu Registration of Marriage Act, 2009. The learned counsel further submitted that Section 7 of the Act specifically provides that the Registering Authority must scrutinize all the documents and must satisfy himself that the parties have attained requisite age for marriage and only thereafter, the registration should have taken place, whereas in the present case, there was absolutely no scrutiny of documents and no verification was made and the registration was mechanically undertaken by the second respondent. The learned counsel further submitted that no formal marriage took place between the petitioner and the third respondent and in fact, the Certificate that was produced by the third respondent before the second respondent was a forged document and no such certificate was given by the Priest. The learned counsel submitted that the third respondent has now proceeded to marry another girl and the petitioner has been left in the lurch and if the registration of the marriage is not annulled, the future prospects of the petitioner will be completely jeopardized.

6.The learned counsel appearing for the fourth respondent, who is the Parish Priest, who is said to have conducted the marriage submitted that he had not conducted the marriage between the petitioner and the third respondent and during the relevant point of time, he was not present in the Church. The learned counsel further submitted that the so called Marriage Certificate was not signed by the fourth respondent and it is a forged document.



7.The learned counsel appearing on behalf of the third respondent submitted that the petitioner and the third respondent had a love affair and the petitioner was present at the time of the registration of marriage and for reasons best known to the petitioner, the petitioner is now denying the marriage and seeking for annulment of the registration. The learned counsel submitted that the petitioner was aged about 17 years at the time of marriage and the third respondent was aged about 22 years. The learned counsel made it clear that if the registration made by the second respondent, on the face of it, is not legal, he leaves it to this Court to take any appropriate decision and the third respondent will abide by the same.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.It is clear from the facts of the case that the petitioner and the third respondent are known to each other. However, it is not clear as to why the petitioner accompanied the third respondent to the Office of the Registrar and signed in certain documents. Probably the petitioner, who was in her adolescence did not understand the consequences of a marriage registered before the competent Authority. It is an admitted case that the petitioner was aged only 17 years at the time of marriage. Therefore, the so called marriage itself is invalid in the eye of law and it ought not to have been registered by the second respondent. This Court also takes into consideration the specific stand taken by the fourth respondent to the effect that no marriage took place on 08.08.2017 and no marriage certificate was issued by the fourth respondent and the very marriage certificate that was produced before the second respondent is highly doubtful.

10.The second respondent has been assigned certain duties under the Tamilnadu Registration of Marriage Act, 2009. The second respondent ought to have confirmed from the fourth respondent as to whether any marriage took place between the parties, since both the petitioner and the third respondent were very young, when they approached the second respondent. That apart, the second respondent ought to have atleast ascertained the age of the petitioner. If the second respondent had taken care to ascertain the age of the petitioner, he would not have proceeded further to register the marriage.

11.In the present case, there is a very serious doubt as to whether any marriage took place between petitioner and the third respondent. That apart, the so called marriage certificate that was produced before the second respondent is highly doubtful in view of the specific stand taken by the fourth respondent. This added to the fact that the petitioner was hardly 17 years at the time of marriage, also makes the marriage invalid in the eye



12.In view of the above, the very registration of the marriage by the second respondent is invalid in the eye of law. The second respondent failed in his duty by not scrutinizing the documents and ascertaining the age of the petitioner and the registration has taken place in a mechanical fashion. Unfortunately, the registration of the marriage by the second respondent is now standing in the way of the petitioner and it will very seriously affect her future prospects. The learned counsel for the third respondent has categorically submitted that the third respondent leaves it to the decision of the Court and the third respondent will abide by any decision.

13.Taking into consideration the facts and circumstances of the case and also the fact that the very registration is bad in the eye of law, this Court is inclined to interfere with the registration of the marriage by the second respondent. Accordingly, the certificate of the registration of marriage issued by the second respondent dated 16.08.2017 in Marriage Sl.No.241/2017, is hereby quashed as illegal and opposed to law.

14.In view of quashing of the Marriage Certificate issued by the second respondent, the impugned rejection order passed by the first respondent dated 21.09.2020 is also hereby set aside. As a consequence, this Court holds that there was no marriage between the petitioner and the third respondent.

15.This Writ Petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is allowed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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:-

1.The District Registrar (Administration),
Thoothukudi.



2.The Registrar of Marriages/Sub-Registrar,
Thoothukudi Keelur,
Thoothukudi.

+1 CC to M/s.FATHER XAVIER ASSOCIAT, Advocate (SR-20391[F] dated 28/06/2021)

+1 CC to M/s.SPL GP (SR-20463[F] dated 28/06/2021)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-20467[F] dated 28/06/2021)

**W.P. (MD) .No.15791 of 2020
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