

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.NO.13951 OF 2019

K.Pooja

...Petitioner

Vs.

- 1.The State of Tamil Nadu
Represented by its Chief Secretary,
Fort St.George,
Chennai - 600 009.
- 2.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.
- 3.Pastor John Amulraj,
Registrar of Marriage,
161, Linghi Chetty Street,
Chennai - 600 001.

4.M.S.Seyed Shiek Kamal Nazar

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned certificate bearing S.No-4699/2018 & M.No.1094/2016 issued on 09.11.2018 and quash the same.

For Petitioner : Mrs.Shobana

For Respondents : Ms.V.Yamunadevi
Special Govt. Pleader for R1 & R2
R3 & R4 - No Appearance

O R D E R

The petitioner seeks a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned certificate bearing Serial No.4699/2018 and M.No.1094/2016 issued on 09.11.2018 and to quash the same.

2.The said certificate was issued by the 2nd respondent under Section 34 of the Indian Christian Marriage Act. It is the contention of the petitioner that there was no marriage on 29.06.2016 between her and the 4th respondent and there could not have been a marriage under the Indian Christian Marriage Act because the petitioner is a Hindu and the 4th respondent is a Mohammedan. The petitioner would claim that this bogus certificate has been created with some evil intention.

3.Upon service of notice, the 4th respondent has filed a counter affidavit stating that he is still a Mohammedan by religion and he has not underwent any kind of marriage with the petitioner particularly, before the 3rd respondent. It is also on record that the licence of the 3rd respondent as a Marriage Registrar has been cancelled by the Government of Tamilnadu on 16.10.2017.

4.By order dated 07.06.2022, I had required the Registrar, Mr.U.S.Arumugam to be present in Court to explain as to how a marriage between a Mohammedan and a Hindu solemnized by a Christian Pastor was registered mechanically. Since Mr.U.S.Arumugam is no longer in service, Mr.Arulsamy, P.A. (General) to the Inspector General of Registration is present in Court.

5.According to Mr.Arulsamy, in view of the provisions of the Indian Christian Marriage Act, the registration is only a mechanical procedure and the authorities do not have any power to investigate upon the factum of marriage. Relying upon Section 34 of the Act, Mr.Arulsamy would state that the Registrar only acts as a Post Office and he has to enter the certificates issued by the persons authorized to solemnize marriages under the Act to the marriage Registrar and he shall copy the same in the register and send the same to the Registrar General. Therefore, according to the Official, the registration of the marriage in the Register of Marriages is only a ministerial act and does not add any sanctity to otherwise an illegal marriage.

6.No doubt, if the question of marriage is disputed, it is for the parties to approach a Civil Court but, in the case on hand, both the petitioner and the 4th respondent have affirmed by sworn affidavits before this Court that no such marriage actually took place. It is also on record that because of such malpractice, the licence of the 3rd respondent has been cancelled.

7.I therefore, have no hesitation in concluding that the certificate of marriage issued by the 3rd respondent to the

effect that the marriage was solemnized between the petitioner and the 4th respondent on 29.06.2016 is invalid and the same will stand cancelled. Once a certificate of marriage is cancelled, it is automatic that the entry relating to the marriage in the Register of Marriages maintained by the Registrar of Marriages under Section 34 will have to be deleted.

8.I am exercising the jurisdiction under Article 226 to nullify a marriage, in view of the fact that there is no dispute regarding the facts and it is crystal clear that the certificate issued by the 3rd respondent is not supported by a valid marriage.

9.Hence, this Writ Petition is allowed, the certificate issued by the 3rd respondent, evidencing a marriage between the petitioner and the 4th respondent will stand cancelled. Consequently, the entry made in the Register of Marriages maintained by the Registrar of Marriages in Registration No. M.No.1094/2016 under Section 34 of the Indian Christian Marriage Act will also stand deleted. The 2nd respondent is directed to ensure deletion of the entry in the register and inform such deletion to the petitioner within 60 days from the date of receipt of a copy of this order.

10.Because of the stand taken by the Department, I am forced to observe that the legislature needs to have a re-look into the Indian Christian Marriage Act so that a regulatory mechanism will put into place to avoid recurrence of such fake certificates being issued by some unscrupulous persons, who manage to obtain licence from the State Government, authorizing them to perform marriages. It is high time that the legislature creates a appropriate regulatory mechanism to avoid recurrence of such fraudulent practices in future.

11.This Writ Petition is allowed with the above observations. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kkn

To:

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

2.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

+1cc to M/s.Shobana, Advocate Sr.No.39171

W.P.No.13951 of 2019

PMK(CO)
RVM(13/07/2022)