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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.27675 of 2022
and
W.M.P.No.26950 of 2022

M.Priyadharsini ... Petitioner

Vs.

The Joint-1 Sub Registrar,
District Registrar Office,
Gobichettipalayam,
Erode District. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 09.09.2022 made in Na.Ka.No.2899/E/2022 issued by the respondent and quash the same and consequently direct the respondent to enter the nullity of Marriage in the marriage register entry No.9/2020 on the file of the respondent, as per the Judgment and Decree dated 07.07.2022 made in F.C.O.P.No.122 of 2021 on the file of the Family Court, Erode.

For Petitioner : Mr.R.Prabakar
For Respondent : Mr.G.Krishna Raja
Additional Government Pleader

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ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 09.09.2022 made in Na.Ka.No.2899/E/2022 issued by the respondent and quash the same and consequently direct the respondent to enter the nullity of Marriage in the marriage register entry No.9/2020 on the file of the respondent, as per the Judgment and Decree dated 07.07.2022 made in F.C.O.P.No.122 of 2021 on the file of the Family Court, Erode.

2. The case of the petitioner is that, the petitioner's marriage was solemnized on 20.01.2020 with one Mr.M.Jeyendergowtham in the presence of only few relatives. On the same day, the marriage was also registered with the respondent in Hindu Marriage Register in Entry No.9 of 2020. According to the petitioner since the petitioner and the said M.Jeyendergowtham belonging to the same Kootam in the Community, which is considered as brothers and sisters, the marriage is a prohibited marriage, and therefore, the petitioner approached the Family Court, Erode, and filed F.C.O.P.No.122 of 2021 to declare the marriage as null and void on the ground of prohibited degree of relationship. Further, the Family Court also passed the Judgement and decree dated 07.07.2022 and based on the decree of the Family Court,

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the petitioner presented the said decree on 12.08.2022 before the respondent to make necessary entry in the Hindu Marriage Register No.9/2020 by entering the cancellation/nullity of marriage dated 20.01.2020. However, the respondent refused to entertain the said document, and passed the impugned order. Challenging the same, the petitioner filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner presented the judgment and decree, dated 07.07.2022 passed by the Family Court in F.C.O.P.No.122 of 2021 before the respondent to make necessary entry in the book of records. However, the same was refused on the sole ground that the decree obtained from the Family Court, declaring the marriage as null and void and there was no direction to cancel the registration, the respondent refused to register the said document, which is not sustainable.

4. The learned Additional Government Pleader appearing for the respondent submitted that the reason assigned in the impugned order is not sustainable one and the respondent may be directed to register the document presented by the petitioner.

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5. Considering the facts and circumstances of the case, this Court is inclined to issue a direction to the petitioner to represent the order passed by the Family Court in F.C.O.P.No.122 of 2021 for registration within a period of four weeks from the date of receipt of a copy of this order, if such order is presented, then the respondent is directed to register the same in terms of Registration Act.

6. Accordingly, this Writ Petition is allowed and the impugned order passed by the respondent is set aside and the respondent is directed to register the judgment and decree, dated 07.07.2022 passed by the Family Court, Erode in F.C.O.P.No.122 of 2021, in accordance with law, if it is otherwise in order. No costs. Consequently, connected Miscellaneous Petition is closed.

20.10.2022

Index : Yes / No
Speaking order: Yes/ No
jd

To

The Joint-1 Sub Registrar,
District Registrar Office,
Gobichettipalayam,
Erode District.

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M.DHANDAPANI, J.
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