



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

S.A(MD)No.440 of 2011

S.Noorjahan ... Appellant/Respondent/Plaintiff

Vs.

1.J.Thomas Stalin ... 1st Respondent/Appellant/1st Defendant

2.The Marriage Officer/Marriage Joint Officer,
Thanjavur Registration District,
At Sivagangai Poonga,
Mela Raja Veethi,
Thanjavur. ... 2nd Respondent/2nd Respondent/
2nd Defendant

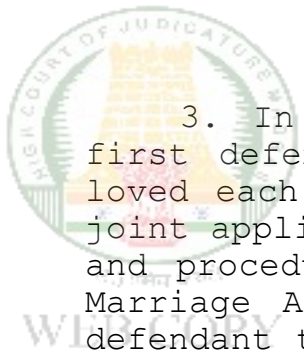
Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree, dated 19.11.2009 passed in A.S.No.16 of 2009, on the file of the Additional Sub-Court, Thanjavur, reversing the judgment and decree, dated 23.12.2008 passed in O.S.No.195 of 2007 on the file of the District Munsif Court, Thanjavur.

For Appellant : Mr.K.Guhan
For R - 1 : Mr.R.Rajaraman

JUDGMENT

This second appeal has been directed against the Judgment and decree, dated 19.11.2009 passed in A.S.No.16 of 2009, by the Additional Sub-Court, Thanjavur, wherein, the Judgment and decree, dated 23.12.2008 passed in O.S.No.195 of 2007 by the District Munsif Court, Thanjavur, are reversed.

2. The appellant herein as plaintiff has instituted a suit in O.S.No.195 of 2007 on the file of the trial Court for mandatory injunction directing the second defendant to cancel the marriage application given on 23.02.2007 and to pass a decree for permanent injunction proceeding with the solemnization of any marriage of the plaintiff with the first defendant under the second defendant under the Special Marriage Act, 1954, wherein, the respondents have been shown as the defendants.



3. In the plaint, it is averred that the plaintiff and the first defendant were working as Guest Lecturers and both of them loved each other and they decided to marry. Both agreed to give a joint application to solemnize the marriage at Thanjavur in the form and procedure as contemplated under the provisions of the Special Marriage Act, 1954, as amended. It was also agreed by the first defendant that within the spell of 90 days, he will convert himself to Muslim religion. On the assurance and the undertaking given by the first defendant to the plaintiff, they jointly filed a form for marriage to be performed as per the procedure under the Special Marriage Act, 1954, as amended. They have submitted the same before the Marriage Officer for conducting the Special Marriage, Thanjavur Sub-Registration District, Sivagangai Park at West Main Street on 23.02.2007. On 03.04.2007, the plaintiff and the first respondent went to the Registrar Office and also had signed the relevant documents. At that time, the plaintiff approached the first defendant about his conversion to Muslim Religion. In spite of repeated oral requests made by the plaintiff, the first defendant gave evasive reply. On 30.04.2007, the plaintiff was informed by her family friends at Mannargudi that notice of the intended marriage of the plaintiff and the first defendant was published in Marriage Form No.10 was affixed in the notice board at Sub-Registrar's Office, Mannargudi. In that notice, it is mentioned that the marriage between the plaintiff and the first respondent is going to be solemnized under the Special Marriage Act, 1954 within three calendar months. From the date of application, dated 23.02.2007, 90 days comes to an end on 23.05.2007, which is the last date. The appellant again phoned the first defendant about his conversion to Muslim Religion, but the first defendant was hesitating and not ready to convert himself to Muslim Religion. The plaintiff, on 30.04.2007, had sent a registered post to the Marriage Registrar, Thanjavur and also sent a copy of the same to the first defendant informing him to cancel the registration of marriage application, dated 23.02.2007. The said notices were acknowledged by the respondents. The defendants hurriedly made arrangements to somehow or other, by other ways and means to register the marriage without adopting any procedure as contemplated under the Special Marriage Act, 1954. Hence, the plaintiff has filed the above suit for the relief stated supra.

4. In the written statement filed on the side of the first defendant, the first defendant denied the averments made in the plaint and contended that after marriage, the plaintiff and the first respondent are living together and the marriage got consummated and prayed for dismissal of the suit.

5. In the written statement filed on the side of the second defendant, the second defendant stated that he has acted only as per the provisions of the Special Marriage Act and he has not violated any of the provisions of the Act and prayed for dismissal of the



6. Before the trial Court, on the side of the plaintiff, the plaintiff examined herself as P.W.1 and Exs.A1 to A4 were marked. On the side of the defendants, one Sivaji was examined as D.W.1 and Exs.B.1 to B.5 were marked.

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7. In the said suit, the first defendant has not appeared before the trial Court and an set ex-parte decree was passed with regard to the first defendant and the second respondent alone contested the suit.

8. On the basis of the rival pleadings made on either side, the trial Court has framed necessary issues and after evaluating both the oral and documentary evidence, has decreed the suit in favour of the plaintiff.

9. Aggrieved by the Judgment and decree passed by the trial Court, the first defendant as appellant, had filed an Appeal Suit in A.S.No.16 of 2009. The first appellate Court, after hearing both sides and upon reappraising the evidence available on record, has allowed the appeal and set aside the Judgment and decree passed by the trial Court.

10. Challenging the judgment and decree passed by the first Appellate Court, the present second appeal has been preferred at the instance of the appellant, as plaintiff.

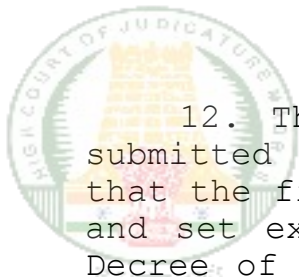
11. At the time of admitting the present second appeal, the following substantial questions of law have been framed for consideration:

"1) Whether the judgment and decree of the first appellate Court are sustainable inasmuch as they are perverse and contrary to the material on record and based on misreading of evidence and documents?

2) Whether the judgment and decree of the first appellate Court are vitiated in not granting the relief for the appellant especially the appellant as plaintiff has substantiated he claim on the basis of Ex.A1 to A4 and the very admission of DW.1?

3) Whether the first Appellate Court are right in dismissing the suit without considering Special Marriage Act, 1954 clearly stated that marriage officer to perform any marriage? and

4) Has not the first appellate Court misinterpreted Ex.B1 to B5 documents?"



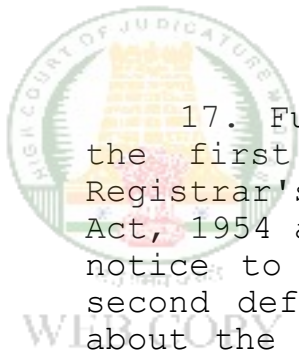
12. The learned counsel appearing for the appellant/plaintiff submitted that the first Appellate Court had totally failed to see that the first respondent/first defendant has not contested the case and set ex-parte without giving any evidence and the Judgment and Decree of the first Appellate Court is liable to be set aside and reversible. The first Appellate Court failed to see that under the Special Marriage Act, 1954, no marriage was performed by the Marriage Registrar as admitted by D.W.1, the Head Clerk of the Registrar of Office, vide Exs.B.1 to B.5 and in such case, the first Appellate Court had come to the conclusion that the marriage was performed and prayed for allowing the Second Appeal.

13. The learned counsel appearing for the first respondent/first defendant submitted that the first Appellate Court has rightly allowed the appeal and prayed for dismissing the Second Appeal.

14. Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials available on record.

15. It is the case of the plaintiff that the plaintiff and the first defendant were working as Guest Lecturers and they decided to marry. Both of them have agreed to give a joint application on 23.02.2007 to solemnize their marriage at Thanjavur in the form and procedure as contemplated under the provisions of the Special Marriage Act, 1954, as amended. It was also agreed by the first defendant that within the spell of 90 days, the notice period, he will convert himself to Muslim religion. Since the first defendant was hesitating and not ready to convert himself to Muslim Religion, the plaintiff, on 30.04.2007, had sent a registered post to the Marriage Registrar, Thanjavur and also sent a copy of the same to the first defendant informing to cancel the registration of marriage application, dated 23.02.2007. The said notices were acknowledged by the respondents. The defendants hurriedly made arrangements to somehow or other, to register the marriage without adopting the procedure as contemplated under the Special Marriage Act, 1954. It is the case of the first respondent/first defendant that after the marriage, the plaintiff and the first respondent are living together and the marriage got consummated.

16. On a perusal of the materials available on record, it is seen that the plaintiff was examined as P.W.1. The application submitted before the second respondent on 23.02.2007 was marked as Ex.A.1; On 30.04.2007, the plaintiff sent a registered post to the Marriage Registrar, Thanjavur, to cancel the registration of the marriage application, dated 23.02.2007, marked as Ex.A.2; the postal receipt marked as Ex.A.3 and the notice acknowledged by the first defendant marked as Ex.A.4. On the side of the defendants, one Guru Sivaji was examined as D.W.1.



17. Further, it is seen that on 23.02.2007, the plaintiff and the first defendant had given an application before the Sub-Registrar's Office under Section 1954(5)-(1) of the Special Marriage Act, 1954 and as per Section 6(3) of the said Act, there should be a notice to be issued to the territorial Sub-Registrar Office. The second defendant in his evidence has stated that he was not aware about the date of sending the notice dated 23.02.2007 and the date of notice received from Mannarkudi office was on 02.04.2007. In the said letter, there was no details regarding when they have received the said application or when they have published the same was not found. The second defendant's statement that he has published the same before the Mannarkudi Sub-Registrar Office was also not proved when the same has been raised by the plaintiff that they have not properly published the same before the Mannarkudi Sub-Registrar's Office. Further, the second defendant in his evidence itself has submitted that on 23.02.2007, when the plaintiff and the first defendant signed the application there was no Sub-Registrar available and the supervisor alleged to have conducted the marriage. On 30.04.2007 when the same has been published, which came to the knowledge of the plaintiff, had immediately sent a notice to the second defendant which was marked as Ex.A.2, the postal receipt was marked as Ex.A.3 and the notice acknowledged by the first defendant was marked as Ex.A.4. On 30.04.2007, the plaintiff has sent an application to the second defendant not to take any action on the application, dated 23.02.2007. According to the second defendant's statement, the alleged marriage which has been taken place on 03.04.2007 itself is not supported by any valid evidence. Ex.B.4-xerox copy of the application would show that the plaintiff and the first defendant had given an undertaking before the Sub-Registrar Office on 03.04.2007 and in that, it has been stated that as if on 03.04.2007, the second defendant office has conducted a marriage, but on 30.04.2007, notice has been sent by the plaintiff, for that, no reply has been sent by the second respondent office whether there was any valid marriage conducted or not or what steps they have taken on the notice sent by the plaintiff. The time limit after publication is 90 days, but when the application itself is filed on 23.02.2007 within a month, without even publication, there cannot be any marriage being conducted on 03.04.2007. The plaintiff reiterated that there was no marriage taken place between herself and the first defendant, but the second defendant has given the marriage certificate, as if the marriage was held on 03.04.2007. If at all there was a statement made that the marriage was conducted on 03.04.2007, the second defendant ought to have proved the same.

18. Section 16 of the Special Marriage Act, 1954, reads as follows:-

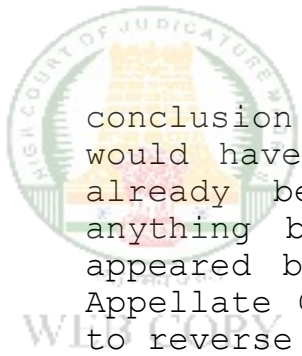
"16.Procedure for registration.- Upon receipt of an application signed by both the parties to the marriage for the registration of their marriage under this Chapter, the Marriage Officer shall give public



notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objection and after hearing any objection received within the period, shall, if satisfied that all the conditions mentioned in Section 15 are fulfilled, enter a certificate of the marriage in the Marriage Certificate Book in the Form specified in the Fifth Schedule and such certificate shall be signed by the parties to the marriage and by three witnesses.

As per Section 16 of the Special Marriage Act, 1954, upon receipt of an application signed by both the parties, the Marriage Officer shall issue a public notice thereof in the manner prescribed after allowing a period of thirty days for objection and after hearing any objection received within the period, shall, if satisfied that all the conditions mentioned in Section 15 are fulfilled, enter a certificate of marriage in the Marriage Certificate Book in the Form specified in the Fifth Schedule and such certificate shall be signed by the parties to the marriage and by three witnesses.

19. Only after giving notice, the marriage has to be registered. But, on 30.04.2007 itself, the plaintiff has issued a notice stating that she is giving an objection. The lower Court has proceeded on the ground that after 23.02.2007, there should be three months notice period is not accepted by this Court, but the second defendant has not proved that he has not received any such objection. When the plaintiff submitted that the application was submitted only by the plaintiff and the first defendant and no witnesses has been signed in the same, the second defendant on his own has filled up the same and sent it to the Mannarkudi Sub-Registrar Office. The witnesses are the employees of the said office and no third party has signed in the same. In the said document Ex.B.4, no signature of the Registrar was found. The signature of the witnesses as well as the plaintiff and the first defendant and no date was found under the signature. Further, there was no such signature of the Sub-Registrar has been found. That being the case, when there was no signature of the Sub-Registrar was found, there was no evidence produced by the second defendant that only before the competent authority, the said marriage has been conducted. Further, the plaintiff's statement that it was only a created document and no such marriage has been held and in Ex.B.5-marriage certificate, it has been stated that only on 03.04.2007, the marriage has been conducted, but in the said document originally '9' has been written and later on, it has been struck off and '3' has been incorporated on top. Even in the date of signature also, the same has been struck off and '3' has been inserted. Hence, in all the documents, there was some additions made and hence, this Court is of the view that the said document is not genuine and it has with lot of discrepancies. As no reply filed by the second defendant, when the plaintiff sent a notice, the trial Court has come to the



conclusion that if there was already a marriage taken place, he would have definitely sent a reply stating that the marriage has already been registered, but the second defendant not stated anything by way of reply and the first defendant also has not appeared before the trial Court and later on only, in the first Appellate Court, the first defendant has filed an appeal and tried to reverse the finding of the trial Court.

20. Sections 5 to 8 of the Special Marriage Act, 1954, read as follows:-

"5. Notice of intended marriage.-When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

6. Marriage Notice Book and publication.-(1) The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

(2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

(3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

7. Objection to marriage.-(1) Any person may, before the expiration of thirty days from the date on which any such notice has been published under sub-section (2) of section 6, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.



(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained if necessary, to the person making the objection and shall be signed by him or on his behalf.

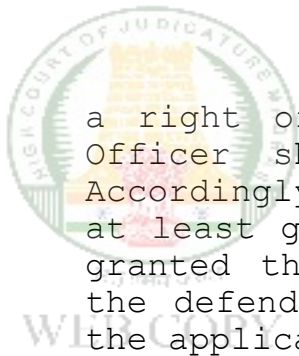
8. Procedure on receipt of objection.-(1) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court."

As contemplated under Section 7 of the Act, when any person before the expiry of thirty days from the date on which any such notice has been published, object to the marriage on the ground that it would contravene one or more of the conditions, the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained, if necessary, to the person making the objection and shall be signed by him or on his behalf.

21. Here is the case when the plaintiff has proved her case that she had sent a notice on 30.04.2007 objecting for the said registration of marriage, the said authority, inspite of receiving it, has not either noted it down in the marriage note book or he has taken any steps to proceed further as per Section 8 of the Act.

22. Such objections should ordinarily be disposed of by the Marriage Officer within a specified period, the parties being given

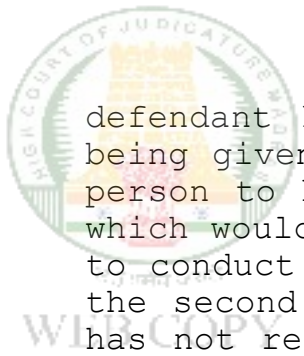


a right of appeal also before the competent Court. The Marriage Officer shall hold an enquiry with respect to such matters. Accordingly, when the Marriage Officer has not taken any steps for at least giving a reply or holding an enquiry, the trial Court has granted the said prayer that the permanent injunction restraining the defendants from proceeding further in the said application and the application is of the year 2007.

23. The first defendant stated that the plaintiff and the first defendant jointly filled a form for marriage to be performed as per the Special Marriage Act, 1954, and submitted an application on 23.02.2007 and only on 03.04.2007, the said marriage was confirmed by the second defendant, but it is not correct to state that at the time of confirming the marriage, the plaintiff has approached the first defendant about his conversion to Muslim religion and denied as false. On 30.04.2007, the plaintiff was informed by her family friends at Mannarkudi that notice of the inducted marriage on the first defendant was published in Form No.10 was affixed to be proved by the plaintiff. He submitted that both were living as husband and wife and she only left the house for living separately at Thanjavur as the parents had tortured and ill-treated her and hence, he also allowed her to live there and this is not the reason for not conducting the marriage as alleged. She has stated that he did not want to convert to Muslim religion and all these averments are false and she sending a notice to the defendants for cancelling the marriage on 30.04.2007 was denied as false. Actually after receiving the notice, the first defendant immediately contacted the plaintiff over phone about the issuing of notice. But the plaintiff told that only at the threat of her parents, she issued such notice. Hence, sending of a notice has been proved by his own written statement regarding the objection made. The first defendant stated that the marriage has got consummated and prayed for dismissing the same. On the side of the second defendant, the Supervisor has filed the written statement. He stated that he has conducted the marriage as per the Act following all the Rules and Regulations and he has not violated any of the Rules.

24. The first Appellate Court has proceeded when the first defendant filed an appeal. The first defendant has not appeared before the trial Court for letting in any evidence. As he was set ex-parte, he could not cross-examine the plaintiff or the other persons and to prove his case. Hence, he wanted to conduct the case again and to live with the plaintiff.

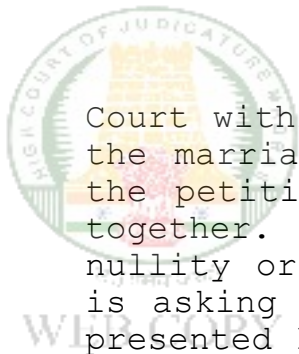
25. As the second defendant has got no power to conduct the marriage as the Special Marriage Act gives a power, who has to be appointed as Marriage Officers, the State Government may by notification in the official Gazette appoint one or more Marriage Officers for the whole or any part of the State. That being the case, each marriage has to be registered by the Marriage Officer



defendant has also not proved that he had any such authorization being given by the Sub-Registrar, as this person is not a competent person to hold the marriage, as he has not produced any such rules which would show that the Sub-Registrar can authorize the supervisor to conduct any marriage. Even on the date of deposing as a witness, the second defendant was only a supervisor and he admitted that he has not received any such authorization or direction for acting as such and Ex.B.4 would prove that there was no such signature of Sub-Registrar is available and also no date has been mentioned in the said document and only before him, the plaintiff and the first defendant had taken an undertaking was not proved by any other witnesses. When the second defendant stated that from 28.11.2008, he has been in-charge of the Sub-Registrar, but on 23.02.2007 the alleged date of marriage, he has not been appointed to act on behalf of the Sub-Registrar. Hence, the second defendant himself had admitted that no such order has been issued for authorizing him to conduct the marriage. The first Appellate Court has come to the wrong conclusion that on 03.04.2007, the plaintiff and the first defendant had gone and signed the said document before the officer of the Sub-Registrar.

26. The case of the plaintiff is that when the plaintiff approached the first defendant requesting him to convert to Muslim religion and he has also agreed to convert as Muslim within a period of one month, but not converted. It has been stated that at the time when she filed the suit, she filed an objection petition on 30.04.2007 not to take action on the application, dated 23.02.2007. The objection petition is known to the defendant has been proved, but not accepted by the first Appellate Court and in the plaint averment, the plaintiff has stated that since the first defendant was not ready to convert himself to Muslim Religion, the plaintiff on 30.04.2007 had sent a objection through registered post to the Marriage Registrar, Thanjavur and also had sent a copy of the same to the first defendant informing to cancel the Registration of Marriage application, dated 23.02.2007. In that notice, the plaintiff has not made any suppression of the facts. The notices were acknowledged by the defendants 1 and 2. Further, the plaintiff submits that when she came to know that the first defendant with the active assistance of the second defendant is making arrangement to register the marriage by impersonating the plaintiff filed the suit and prayed for issuance of permanent injunction restraining the defendants from proceeding with the joint application be granted, otherwise the plaintiff will be put into irreparable loss and hardship. The plaintiff also submits that as per the law, the marriage between the plaintiff and the first defendant was not solemnized so far.

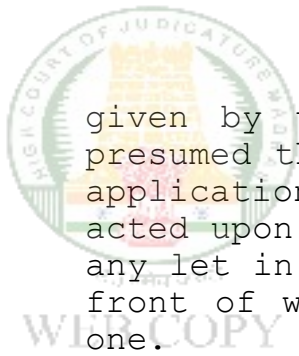
27. The first Appellate Court has come to the conclusion that as per Chapter 7 of the Special Marriage Act, 1954, every petition or Chapter VI shall be presented to the District



Court within the local limits of whose original civil jurisdiction, the marriage was solemnized or at the time of the presentation of the petition, resides or the parties to the marriage last resided together. This is for claiming the marriage to be declared as nullity or for divorce. But, here is the case, where the plaintiff is asking only for declaration that the application which has been presented by her not to be acted upon and she did not ask for the marriage to be declared as null and void and she should have proceeded under Section 24 of the Hindu Marriage Act. Here is the case, where both the parties are not Hindus and they are Christians and Muslims. Hence, the first Appellate Court finding does not found to be proper and acceptable.

28. According to the first Appellate Court, the prayer which has been sought for by the plaintiff has already become infructuous on the ground that the marriage has already been solemnized. When the first Appellate Court itself has observed in its Judgment that the second defendant's evidence which clearly states that he has got no authorization to conduct the marriage, then the alleged marriage registered is not valid as per law.

29. The trial Court has correctly rendered the Judgment, but the first Appellate Court has erroneously allowed the first Appeal. The first Appellate Court has not analysed the deposition of D.W.1, wherein, it has been clearly found that the second respondent has no got no authority to conduct the marriage. As the suit is filed only for permanent injunction, the District Munsif has taken the same on file, but the first defendant failed to appear before the trial Court, who was set ex-parte and then he filed an appeal and without letting in any evidence, the first Appellate Court has believed his words in the grounds of appeal and decided the issue against the plaintiff has to be set aside. Further, the first defendant has not appeared before the trial Court and the proper relief has been sought for by the plaintiff and accordingly, this Court is of the view that already the marriage has not been solemnized when there was no proper evidence produced by the defendants to prove that there was a valid marriage taken place on 03.04.2007 and the marriage was consummated. The defendants were not in a position to state that as to when the second defendant has sent the application details to the Mannarkudi Sub-Registrar Office, as the plaintiff is residing in Mannarkudi. In Mannarkudi Sub-Registrar Office, there was no proper details by way of records have been furnished by the second defendant that when they have received the application or when they have affixed the publication in the notice board. As they have not proved it beyond doubt by substantiating evidence, when it is essential that notice to be given to the permanent residence of the plaintiff and no evidence has been produced by the defendants and the plaintiff also filed her objection immediately on coming to Mannarkudi Sub-Registrar Office. The same was affixed on 30.04.2007, there was no reply



given by the second defendant to the plaintiff and it is to be presumed that the second defendant has not acted as per law and the application, dated 23.02.2007 has to be set aside and not to be acted upon. It is also further seen that the first defendant has not any let in any evidence to show that the marriage has taken place in front of witnesses. The alleged marriage registered is not a valid one.

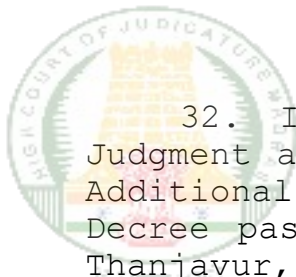
30. In this regard, it is relevant to rely upon the Judgment of the Allahabad High Court in **Nirmal Dass Bose Vs. Mamta Gulati** reported in **AIR (1997) Allahabad 401**, wherein it is held as follows:-

"11.It may further be noticed that as provided for under Section 13 of the Act on a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act had been solemnized and that all formalities respecting the signatures of witnesses have been complied with.

12.A void marriage is no marriage. It is a marriage which does not exist from its beginning. In other words, no legal consequences flow from a void marriage. It does not confer a status or husband and wife on the parties or status of legitimacy of children of such a marriage. Further, it does not give rise to any rights and obligations against each other as well as against the third person. It must be emphasised that it is not the decree of Court which renders such a marriage void as the Court merely declares the marriage to be null and void. In case, the marriage is void, the Court merely makes a judicial declaration of that fact. Void marriage cannot either be approbated or ratified."

From the above, it is seen that a void marriage is no marriage and it is a marriage which does not exist from its beginning.

31. In view of the above facts and circumstances, the trial Court has gone through the evidence and pleadings of the parties and rightly decreed the suit and accordingly, the substantial questions of law are answered in favour of the appellant/plaintiff and as against the first respondent/first defendant.



32. In fine, the Second Appeal is allowed. No costs. The Judgment and Decree passed in A.S.No.16 of 2009 on the file of the Additional Sub Court, Thanjavur, are set aside and the Judgment and Decree passed in O.S.No.195 of 2007 by the District Munsif Court, Thanjavur, is confirmed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

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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 Additional Subordinate Judge,
Thanjavur.
- 2.The District Munsif,
Thanjavur.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

+1 CC to M/s.K.GUHAN, Advocate (SR-3460[F] dated 01/02/2022)

+1 CC to M/s.R.RAJARAMAN, Advocate (SR-3537[F] dated 02/02/2022)

Judgment made in

S.A(MD)No.440 of 2011

01.02.2022

SP (CO)

GC(18.02.2022) 13P 7C