



W.P.No.8128 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.08.2023

Pronounced on : 15.09.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.8128 of 2022

R.Antony Raj

.... Petitioner

Vs.

1.The District Registrar
Royapuram
Chennai.

2.The Sub Registrar
Royapuram
Chennai.

3.J.Kumari Anitha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the second respondent to cancel the marriage registration certificate in Marriage Serial No.606 of 2012 based on the representation made by the petitioner dated 11.03.2022.

For Petitioner : Mr.V.Kasinatha Bharathi

For Respondents : Mr.G.Ameedius
Government Advocate for R1 & R2



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ORDER

The petitioner has filed this petition seeking a direction to the second respondent to cancel the marriage registration certificate issued by him, as per which the petitioner is stated to have been married to the third respondent.

2. In his affidavit, the petitioner avers that on 17.02.2012, he was married to the third respondent, who according to him, is a Christian. The marriage, according to him, was registered in the office of the second respondent on the same day, and a marriage certificate too was issued. Later misunderstanding arose between the petitioner and the third respondent, following which, he approached the Family Court, Chennai, with a petition for dissolution of marriage, and it was taken by the Court in O.P.Sr.No.6191 of 2016, but the Court did not entertain it. In its orders, the Court has held that '*unless a valid marriage solemnized under any system of law subsists, the question of dissolution will not arise at all. Therefore, since the suit itself is not maintainable on the above said ground and the confirmation under 17 does not arise*'. In short, the Court has held that there is no valid



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marriage between the parties, since no proof of marriage as per the rites of any of the personal law is found to have taken place.

2.2 So far as the marriage between the petitioner and the third respondent is concerned, the petitioner alleges that it was not performed as a Christian marriage. Hence, the petitioner has approached the second respondent with his representation dated 11.03.2022, to cancel the marriage certificate dated 17.02.2012 issued by him. Even though the petitioner has met the respondents in person on several occasions to consider his request, the same was rejected. Hence, the petitioner seeks a direction of the Court in this regard.

3. The learned counsel for the petitioner argued, when there is no valid marriage between the petitioner and the third respondent, the registration of a marriage that never was contracted cannot be valid and is liable to struck off the register. Reliance was placed on the ratio of this Court in ***B.Sahar Banu Vs The Inspector General of Registration & Others*** (W.P.(MD) No.7288 of 2015 dated 17.10.2022).



4. Mr.G.Ameedius, the learned Government Advocate has taken notice for the respondents 1 and 2. He made a statement on written instructions that the marriage between the petitioner and the third respondent was not registered a registered marriage under the Special marriage Act, but was registration of a purported marriage in terms of Section 3 of the Tamil Nadu Registration of Marriages Act, 2009.

5. Was there any marriage between the petitioner and the 3rd respondent? The way the petitioner has presented the facts, with the 3rd respondent opting not to participate in this proceedings, there appears to have been none. Parties are Christians, and there was no Church Marriage, conforming to the Christian Marriage Act, still, they had a 'marriage' registered under the Tamil Nadu Registration of Marriages Act, 2009 (hereinafter would be referred to as the Act).

6. The Act has only made it mandatory to register a marriage that has already taken place, and its consequence is not the same as a register-marriage, or to state it differently, it is not one that creates a marital relationship between parties.



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7. Sec.2(c) of the Act defines marriage to include “*all marriages performed by persons belonging to any caste or religion under any law for the time being in force, or as per any custom or usage in any form or manner and also includes remarriage*”. It is the marriage so performed within the meaning of the Sec.2, the Act requires it to be registered under Sec.3. It reads:

Every marriage performed on and from the date of commencement of this Act shall be registered under this Act notwithstanding the fact that the said marriage had been entered in the marriage registers governed by any other personal laws of the parties to the marriage or custom or usage or tradition.

The Act then proceeds to deal with the procedure for registering a marriage. Going further, under Sec.14 read with Sec.16 of the Act makes non compliance with the provision of the Act, which include providing any false information, an offence, inviting a penalty of no more than Rs.1,000/- as fine. This implies, if a legally conducted marriage is not registered under the Act, or some false information is provided while registering a marriage, it does not set at naught the marriage that has taken place, but only expose the parties to a



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prosecution based on a complaint preferred under Sec.16 of the Act.

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8. The issue which the petitioner raises before the Court involves registration of an alleged marriage under the Act that never had taken place. And, the petitioner requires that this entry goes off the Register of marriage, maintained under the Act. As indicated earlier, the worst that may visit the petitioner is a prosecution, even if his statements were true. But with the 3rd respondent not before the Court, this Court may not know if a marriage at all had happened. That will be a question of fact, and it is beyond the scope of the present petition.

9. This Court therefore, allows the petition, directs the second respondent to cancel the registration of the 'marriage' between the petitioner and the 3rd respondent made on 17.02.2012. It is underscored, this Order will not have any bearing before any competent Court which is required to decide on the marital status of the petitioner and the 3rd respondent. No costs.

15.09.2023

Index : Yes / No

Speaking order / Non-speaking order



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To:

- 1.The District Registrar
Royapuram, Chennai.
- 2.The Sub Registrar
Royapuram, Chennai.



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N.SESHASAYEE.J.,

ds

Pre-delivery order in
W.P.No.8128 of 2022

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