



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.11203 of 2023

S.M.Halikul Jaman

Petitioner

vs.

The Commissioner,
Neravy Commune Panchayat,
Neravy,
Karaikkal.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the respondent ending with No.Nikopa/A3/10/2023 dated 13/2/23 and quash the same and consequently direct the respondent to register the marriage of the Petitioner's daughter H.Sanofar with A. Umar Farook solemnized as per Islamic Shariat on 29/01/23.

For Petitioner : Mr.N.A.Nassir Hussain

For Respondents : Mr.J.Kumaran
Additional Government Pleader
(Puducherry)

**ORDER**

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This writ petition has been filed assailing the proceedings of the respondent dated 13.02.2023 and for a consequential direction to the respondent to register the marriage of the petitioner's daughter with one Umar Farook that was solemnized on 29.01.2023.

2. Heard Mr.N.A.Nassir Hussain, learned counsel appearing on behalf of the petitioner and Mr.J.Kumaran, learned Additional Government Pleader (Puducherry) appearing on behalf of the respondent.

3.The petitioner conducted the marriage of his daughter with one Umar Farook in a Mosque called as Muhaideen Aandavargal Pallivasal, Neravy - 609 604 as per the Islamic Shariat on 29.01.2023 in the presence of the witnesses. The marriage was also recorded in the marriage register of the Mosque. This marriage was required to be registered with the commune panchayat. Hence, the petitioner submitted an application for registration of the marriage. The grievance of the petitioner is that the respondent through the impugned proceedings dated 13.02.2023, rejected to register the marriage on the ground that the certificate of the Khazi, who solemnized the marriage was not submitted. Aggrieved by the same, the present writ petition has been filed



before this Court.

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4. In the considered view of this Court, the Khazi does not have a big role to play in a marriage ceremony. Under the Muslim Law, marriage is a contract, where the only requirement is that the persons entering into marriage should consent to such a marriage in the presence of witnesses. The Khazi's Act, 1880 neither gives any power to the Khazi nor gives any privilege to the Khazi appointed under the Act for performing function / ceremonies. Useful reference can be made by the Division Bench of the Andhra Pradesh High Court in ***Quazi Mohd. Najmuddin Hussain vs. State of A.P. And others*** reported in ***AIR 2005 AP 464***.

5. In the light of the above discussion, the respondent was not right in refusing to register the marriage only on the ground that the concerned Khazi, who conducted the marriage did not issue a Certificate. The marriage between the daughter of the petitioner and the above said Umar Farook is sufficiently evident by the entry that has been made in the register and the same has also been witnessed and signed by the witnesses.

N. ANAND VENKATESH, J.

SSR



6. In the light of the above discussion, the impugned proceedings of the respondent dated 13.02.2023, is hereby quashed and there shall be a direction to the respondent to register the marriage of the petitioner's daughter H. Sanofar with Umar Farook which was solemnized on 29.01.2023. This process shall be completed, within a period of one week from the date of receipt of copy of this order.

7. In the result, this writ petition stands allowed. No Costs.

12.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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(2/2)

To

The Commissioner,
Neravy Commune Panchayat,
Neravy, Karaikkal.

W.P No.11203 of 2023