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W.P.No.32739 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.32739 of 2017

S.Revathi

.. Petitioner

vs

1.The Sub-Registrar

O/o. Sub-Registrar Poonamallee,
Poonamallee, Chennai-600 054.

2.Mr.T.Balamurugan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for records on the file of first respondent in Form-III- Certificate of registration of Marriage dated 21.9.2017 entered as Serial Number-94/2014 in Register of Marriages maintained under Tamil Nadu Registrartion of Marriages Act 2009 and quash the same as illegal null and void.

For Petitioner : Ms.Swetha Naidu
for M/s.Adinarayana Rao

For Respondents : Mr.Veda Bagath Singh
Special Government Pleader
for R1
No appearance for R2

ORDER

The case of the petitioner is that she was employed with WIPRO, Sholinganallur as SAB Domain Officer. The second respondent upon whom several attempts have been made for service albeit unsuccessful had joined WIPRO, the next year i.e.,



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2014. The petitioner and R2 developed a friendly relationship. In 2015, he had left WIPRO joining another private company but the petitioner and R2 continued to be in touch.

2. The petitioner had received a call from R2 sometime in September, 2017 by R2 to facilitate a marriage of two friends of his, that was being conducted in secret as it was opposed by their parents. The petitioner acquiesced, took leave of absence on 21.09.2017 and went along with R2 to the office of the Sub-Registrar at Poonamallee. The petitioner claims to have been informed that the bridegroom was one Kanchinathan. She also claims that she was asked to answer by stating 'yes' to all questions and affixing her signature where told. She had, in addition, provided a photograph and ID card for address proof. The petitioner faithfully followed the instructions of R2 as she had been directed.

3. While this is so, she received a phone call from R2 a few days later when he brought to light the fact that what had transpired on the previous occasion, was in fact their own marriage. Though she did not believe him she received a call from the All Women Police Station, Tambaram on 09.10.2017 referring to a complaint by her husband / R2 that she was missing. It was only



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then, she claims, that she came to know about the drama enacted by R2.

4. She challenges the registration certificate dated 21.09.2017 as having been obtained by fraud. The certificate portayed as though her marriage to R2 was solmenized on 10.09.2017 at Sri Selva Vinayagar, Sri Elangaliyamman, Sri Ellaiyamman Alayangal, Prayambathu, Thirumazhisai, Chennai – 600 124, Poonamallee Taluk, Thiruvallur District, which she completely denies.

5. This writ petition is for a certiorarified mandamus calling for and quashing marriage certificate dated 21.09.2017 issued in terms of the Tamil Nadu Registration of Marriages Act, 2009 as null and void.

6. Notice issued to R2 has been returned with the endorsement 'no such person in this address'.

7. As to the stand of the official respondent, learned Special Government Pleader would emphasis that the certificate has been issued by the Sub-Registrar, Poonamallee, who has proceeded



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on the basis of the representation of the parties. He also points out that there is no statutory power vested in the authorities to quash the certificate.

8. In this context, it is apposite to refer to a decision of a Division Bench of this Court in the case of *S.Balakrishnan Pandiyan v Superintendent of Police* [(2014) 7 MLJ 651]. That order was issued in the context of a habeas corpus petition that had been filed in reference to a marriage that was alleged to have taken place in the chamber of the lawyers. In this context the Division Bench states as follows:-

"6. In the decision of this Court in W.P.No.25431 of 2014 dated 22.02.2016, which has been relied upon by the learned counsel for the petitioner, in paragraph -8, the detailed order passed by a Division Bench of this Court in (2014) 7 MLJ 651 (*S.Balakrishnan Pandiyan v Superintendent of Police*), has been referred, and in that writ petition, the impugned certificate of Registration of Marriage therein, was set aside and the matter was remanded back to the Sub-Registrar, with a direction to pass appropriate orders by conducting enquiry in the light of the directions issued by the Division Bench of this Court in (2014) 7 MLJ 651, within a period of four weeks from the date of receipt of a copy of this order.

7. Following the same, Form III – Certificate of Registration of Marriage dated 12.11.2012 entered at Serial No.79/2012 of Register of Marriages maintained under Tamil Nadu Registration of Marriages Act, 2009, which is



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impugned in the present writ petition, is set aside and the matter is remanded back to the first respondent, with a direction to pass appropriate orders by conducting enquiry in the light of the directions issued by the Division Bench of this Court in (2014) 7 MLJ 651 (S.Balakrishnan Pandiyan v Superintendent of Police), within a period of four weeks from the date of receipt of a copy of this order."

9. Following the aforesaid order, a learned Single Judge of this Court in the case of *V.Divya v Marriage Registrar, District Registrar Office, Chennai North and others* in W.P.27884 of 2015 has considered a similar prayer and, vide order dated 10.06.2016, set aside that certificate of marriage registration, remanding the matter to the first respondent with a direction to pass appropriate orders after a detailed enquiry. The petitioner would request that the same order be passed in the present case as well and no objection is put forth by the respondents in this regard.

10. I hence proceed to set aside the impugned order and remand the matter to the first respondent. The Sub-Registrar, Poonamallee is directed to issue notice to R2, at the addresses on record, and if there is no attendance by or on behalf of R2, direct that the petitioner takes paper publication in a widely circulated newspaper in India to ensure that R2 is aware of the present



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proceedings. After completion of enquiry, let orders be passed within a period of four weeks from date of personal hearing.

11. Writ petition is disposed in above terms. No costs.

28.02.2023

Index:Yes
Neutral Citation:Yes
ssm

To

The Sub-Registrar
O/o. Sub-Registrar Poonamallee,
Poonamallee, Chennai-600 054.



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DR. ANITA SUMANTH,J.

ssm

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