



W.P(MD)No.23528 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23528 of 2015
and
M.P.(MD)Nos.1 & 2 of 2015

S.Steola Mascarenhas

Vs.

... Petitioner

1.The Inspector General of Registration,
Registration Department,
Santhome,
Chennai-600 028.

2.The District Registrar,
Dindigul District,
Dindigul-624 003.

3.The Registrar of Marriage,
O/o.The Sub Registrar,
Nagalaickenpatty,
Dindigul-624 003.

4.Subramaniyan

5.J.Sahaya Arputharaj Stephen

6.The Superintendent of Police,
Dindigul District,
Dindigul.



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7.Saathi Maruppu Thirumana Maiyam,
Rep. by its Co-ordinator,
M.Anantha Muniraja,
Advocate,
No.60, East Rajiv Nagar,
Balakrishnapuram,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the either records pertaining to the marriage certificate in Sl.No.75 of 2013 dated 15.05.2013 on the filed of the 3rd respondent and quash the same as illegal and consequently directing the Respondents 1,2 and 6 to take appropriate action against the persons responsible for the illegal registration of marriage in Sl.No. 75 of 2013 dated 15.05.2013 by disposing the petitioner's written representation dated 05.12.2015 within a time frame fixed by this Court.

For Petitioner : no appearance

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for R1 to R3

: Mr.K.Shanmugaraja for R4

: Mr.Albert James
Government Advocate for R6

: Mr.Ganesh Prabhu for R7

ORDER

None appears for the writ petitioner.



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2. The writ petitioner is a Christian. The 5th respondent is a Christian. However, the 7th respondent solemnized their marriage on 15.05.2013 and it was also registered under the Tamil Nadu Registration of Marriages Act, 2009. For nullifying the said marriage certificate, the present writ petition has been filed.

3. The fourth respondent was the Sub Registrar who registered the marriage. The learned counsel appearing for the fourth respondent states that he has since retired from service.

4. The 7th respondent has filed counter affidavit. Thiru.Anantha Muniraja is present in person. He expresses his regret for his act. He also states that after pronouncement of the Division Bench Judgment of this Court in Bala Krishna Pandian case, he has totally refrained from rendering such services.

5. My attention is drawn to the order dated 28.01.2016 made in Crl.O.P. (MD)No.1205 of 2016 (S.Steola Mascarenhas Vs. Superintendent of Police). The petitioner herein filed the said writ petition for initiating criminal prosecution based on her complaint dated 05.12.2015. Paragraph Nos.4 & 5 of



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the said order read as follows:-

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“4. Before parting with the case, this Court opines that in case the marriage had taken place, considering the fact the petitioner and proposed accused, with whom the marriage is said to solemnized, are Christians, the provisions of Hindu Marriage Act, especially Section 7 (A) of the Act will not be applicable and it cannot be construed as a marriage at all. The validity of the marriage is in question at the level of registration and the facts do not call for any judgment on the conflict of personal laws, since the marriage is itself void ab inito. That being the case, I am impelled to recognize the fact of this marriage acquiring the legal colour and character of a relationship in nature of marriage. However, if the parties in this case desire that this relationship should bear the imprimatur of a valid marriage, their options for de novo registration under the relevant provisions of the Act, are always open.

5. In case such a marriage had not taken place at all as averred by the petitioner in this petition, it is to be pointed out here that knowing full well that the parties to the marriage registration form belong to Christianity, the then Sub-Registrar, who has failed in his cardinal duties, has registered the marriage under the Hindu Marriage Act, thereby converted the institution as a plaything. However, this Court do not want to express anything on the same.”

6. In view of the above, the petition mentioned marriage certificate purporting to register the so called marriage between the petitioner and the 5th respondent stands nullified.



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7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.



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