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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 24th January, 2023

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W.P.(C) 16648/2022

MARIAM NAMUBIRU & ANR.

..... Petitioners

Through: Mr. M.P. Srivignesh and Mr. Mithun
Kumaar N, Advocates (M:
9786630341).

versus

UNION OF INDIA, THROUGH THE JOINT SECRETARY,
MINISTRY OF HOME AFFAIRS,
& ORS.

..... Respondents

Through: Mr. Farman Ali, Sr. Panel Counsel
with Mr. Kaushal Jeet Kait, G.P., Mr.
Jamal, Mr. Jatin Yadav & Ms. Usha,
Advocates for R-1 to 3 (M-
8744956276)
Mr. Tushar Sannu & Mr. Devvrat
Tiwari, GNCTD (M-9911991166)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. Petitioner No.1- Ms. Mariam Namubiru, who is a citizen of Uganda, has filed the present petition seeking extension of visa in order to enable her to solemnise her marriage with Petitioner no. 2- Mr. Rahul Tyagi.
3. The case of the Petitioner No.1 is that she is a professional stylist who had come to India on her business visa in 2019. The said visa was valid till 25th April, 2020. However, due to the Covid-19 pandemic, the Petitioner No.1 continues to reside in India. In May 2020, it is claimed that she and

Petitioner No. 2 met and they got into a live-in relationship. The Petitioners are stated to have now decided to get married in India. However, in view of the fact that she does not have a valid visa, it is their case that their marriage cannot be registered in India.

4. Petitioner No.1 then sought extension of her visa vide application number DL0202750722 dated 23rd July, 2022. Moreover, both the Petitioners on 29th May, 2022 swore a joint marriage affidavit declaring their mutual consent to get married. It was disclosed in the visa extension application that Petitioner No.1 is married to Mr. Rahul Tyagi which resulted in an incorrect fact having been disclosed in the original visa application by Petitioner No.1 as in the said application the name of Petitioner No.1's spouse was Luzinda Ronaldo and no dissolution certificate of her previous marriage was provided.

5. The writ also discloses the fact that Petitioner No.1's visa application, which was filed through her agent in Uganda, had incorrectly stated that she was married. Moreover, the mother of Petitioner No.1, in her affidavit on 11th May, 2022 had stated that Petitioner No.1 is not married to anyone and had given consent to the marriage on that basis.

6. The Ugandan Registration Services Bureau has also issued a letter dated 3rd November, 2022 which states that no record was found of Petitioner No.1 contracting marriage in Uganda.

7. The prayer in this petition is for grant of visa extension in terms of representation dated 8th November, 2022. Notice was issued in this petition on 5th December, 2022. The registration of the Petitioners' marriage in India, is yet to take place.

8. Today, Foreigners' Regional Registration Officer (*hereinafter 'FRRO'*) has handed over a status report dated 16th January, 2023. The status report puts forth three aspects:

- a. In order for Petitioner No.1 to convert her business visa into a spouse visa, registration of the marriage is mandatory;
- b. Incorrect details were submitted in the visa extension application, about the marital status of the Petitioner No.1, which, therefore, would render Petitioner No.1's visa application as cancelled;
- c. The marital status letter dated 3rd November, 2022 issued by the Uganda Registration Services Bureau is a document issued by a foreign country and needs to be mandatorily apostilled by the Ministry of External Affairs.

9. The relevant portion of the status report reads as under:

"9. It is further submitted that there is no provision in visa manual for granting visa extension for the purpose of getting marriage registered as sought by the Petitioner. For conversion/extension of a visa into a spouse visa, a marriage registration certificate is mandatorily required to be uploaded by the Petitioner prior to making an application in enable this office to process the application for visa extension on basis of being a spouse of an Indian national.

10. It is submitted that the petitioner has claimed that the wrong details about her parentage and her marital status were filled by an agent. That furnishing of wrong information in the visa application form renders the visa as cancelled and it was duty of the petitioner to fill in her correct details and cross check at the time of applying of her visa.

11. It is further submitted that the marital status letter dated 03.11.2022, annexed as Annexure P-9 to the writ petition as issued by Uganda Registration Services Bureau is a foreign issued document and needs to be mandatorily apostilled (verified) by Ministry of External Affairs to prove the authenticity of the document by the Petitioner No. 1 herself. “

10. It is the stand of the SDM, who registers marriages, before the Court that no application for registration of marriage has been received. In response, Id. Counsel for the Petitioners submits that an online application has been submitted on 21st January, 2023.

11. Heard Id. Counsel for the parties and perused the documents. A perusal of the status report shows that in view of the incorrect data which was submitted earlier by Petitioner No.1, the said Petitioner would now have to firstly get her marital status confirmed and mandatorily apostilled by the Ministry of External Affairs in order to confirm the authenticity of the said documents which is annexed as **Annexure P-9**.

12. Further, Petitioner No.1 may also have to apply for a proper exit permit as currently she is residing as an illegal immigrant in India.

13. In view of the status report given above, the writ petition cannot be entertained at that stage. However, Petitioner No.1 is permitted to take steps in terms of the above status report and avail of her remedies in accordance with law for seeking conversion/extension of her visa and her marriage registration.

14. Upon Petitioner No.1 obtaining the requisite documentation and applying to the visa authorities for extension/conversion of the visa, the same shall be considered and disposed of expeditiously in terms of the

prescribed procedure. Needless to add all facts and documents shall be thoroughly verified by the authorities.

15. All remedies of the Petitioners are left open.

16. The status report handed over to the Court today is taken on record.

17. With these above observations the present petition with all pending applications, if any, is disposed of.

**PRATHIBA M. SINGH
JUDGE**

**JANUARY 24, 2023
MR/SK**

