



W.P.No.23495 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.23495 of 2023
and
W.M.P.Nos.33075 & 33076 of 2023

A.Sonu

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by the Secretary to the Government,
Social Welfare and Women Empowerment Department,
Secretariat, Fort.St.George,
Chennai – 600 009.
- 2.The Additional Registrar (Investigation),
O/o.The District Registrar,
Integrated Building for Offices of the Commercial Taxes,
& Registration Department, Fanepet,
Nandanam, Chennai – 600 035.
- 3.The Inspector General of Registration/
Registrar General of Marriages,
No.100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalai Puram.
- 4.The District Registrar,
Integrated Building for Offices of the Commercial Taxes,
& Registration Department, Fanepet,
Nandanam, Chennai – 600 035.



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5. The Sub-Registrar,
Chennai South (Joint-II),
Integrated Building for Offices of the Commercial Taxes,
& Registration Department, Fanepet,
Nandanam, Chennai – 600 035.

6.S.Jayakumar

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus, calling for the records pertaining to the communication No.26539/G2/2023 dated 21.07.2023 issued by the 2nd respondent and quash the same and consequently, direct the 2nd respondent to conduct a detailed enquiry on the basis of the representation issued by the writ petitioner dated 14.07.2023.

For Petitioner	: Mr.R.Bharanidaran for M/s.P.B.Ramanujam Associates
For R1	: Mr.N.Naveenkumar Government Advocate
For R2 to R5	: Mr.L.S.M.Hasan Fizal Additional Government Pleader
For R6	: Mr.S.Veera Raghavan

ORDER



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The writ on hand has been instituted challenging the communication dated 21.07.2023 issued by the 2nd respondent/Additional Registrar (Investigation) rejecting the petitioner's request for cancellation of marriage certificate.

2. The petitioner states that she was victimized due to dubious ploy set-up by the 6th respondent/Mr.S.Jayakumar, who is presently a Practising Lawyer. At the time of marriage, the 6th respondent had not even enrolled himself as an advocate made the petitioner to sign as witness in the marriage Registration Office.

3. It is not in dispute between the parties that they were in love with each other for several years. Further, the marriage was registered before the Registrar of Marriage. The said registration has been questioned by the petitioner on the ground that the marriage was not registered in accordance with the provisions of the Act and Rules. The petitioner was victimized and the petitioner had no intention to marry the 6th respondent.

4. At the time of registration of marriage, the petitioner was mis-informed by the 6th respondent and the petitioner expressed unwillingness to



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continue the matrimonial relationship with the 6th respondent. The 6th respondent filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, on the file of the Family Court, which is pending. Meanwhile, the present writ petition is filed challenging the communication dated 21.07.2023 issued by the 2nd respondent/Additional Registrar (Investigation) mainly on the ground that the marriage was not registered in accordance with the Act and Rules in force.

5. Mr.R.Bharanidaran, learned Counsel appearing on behalf of the petitioner would mainly submit that the 'Marriage Registration Certificate', which has been issued under the provisions of the Tamil Nadu Registration of Marriage Act, 2009 (hereinafter referred to as the 'Act') suffer from procedural irregularities, as the 5th respondent failed to note that the application, which is a Statutory Form in Form-I under Rule 5 (1) (a) has not been submitted as required under Section 6 of the Act, which requires signature of the Priest, who is solemnizing the marriage under the concerned Personal Laws. Section 6 of the Act reads as follows:

“6. Every Memorandum referred to in Section 5 shall be signed by the parties to the marriage and by the priest and two



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witnesses and shall be accompanied by such fee as may be prescribed.”

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6. Though the application in both Form II as well as Form I mention that the marriage was solemnized at Sri Prasanna Venkata Narasimha Swamy Thirukoil, Saidapet by one Krishnan Iyer, his signature has not been affixed in the application form as required under Section 6 of the Act. The 'Marriage Certificate' issued, if any, by the Temple for solemnization of marriage also has not been produced before the Marriage Registrar at the time of registration.

7. Learned Counsel for the petitioner would contend that the parties have not produced any proof of marriage if solemnized as per their customs and practice at the time of registration of marriage. In the absence of producing any proof to establish that the marriage was solemnized in consonance with the Personal Laws, such marriages cannot be registered and registration become null and void.

8. That apart, the 6th respondent has made false declaration that he



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is an Advocate as on 19.02.2018 viz., the date of application. However, as per the admission of the 6th respondent, he got enrolled in the Bar Council on 26.11.2019, after a lapse of about 1 ½ years from the date of registration of marriage. Thus, the 5th respondent is duty bound to verify all the facts before registering the marriage and issuing the certificate. However, the 5th respondent has not verified nor asked the petitioner to produce relevant certificate to establish the facts recorded in the application. The declaration given by the parties have been considered as it is without verification of the documents. Therefore, the registration is in violation of the provisions of the Act and Rules.

9. The 6th respondent in Column No.8 of the application has mentioned “yes’ for the question “whether the marriage was previously registered under any other Act or Personal Law” and below the same, the 6th respondent in answer to the say 'If “yes” attach certificate' has mentioned as “No”.



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10. The above statement made by the 6th respondent in the application has not been verified nor the Marriage Registrar asked the parties to submit the relevant certificates and documents to prove their statements. Since, the statements are subsequently found to be false, the marriage certificate became null and void.

11. Mr.S.Veera Raghavan, learned Counsel for the 6th respondent would oppose the contention by stating that the marriage was solemnized and registered in accordance with the Act. If at all the parties want to annul the marriage, they may approach the competent Family Court or Civil Court, as the case may be. They cannot file the writ proceedings to resolve the matrimonial disputes and in this regard Hon'ble Supreme Court held that matrimonial disputes are to be resolved before the competent Court of law. The petitioner consented for marriage and accordingly, the marriage was registered. Since it is registered, now the petitioner cannot turn around and claim that the 'marriage certificate' issued by the competent Authority is null and void. Thus, the writ petition is to be rejected.

12. Learned Government Pleader appearing on behalf of the Official



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Respondents relying on the counter affidavit filed by the 1st respondent contended that the procedures as contemplated under the Act and Rules were followed.

13. The counter affidavit also reveals that the parties have voluntarily consented for registration of marriage and the Marriage Registrar accordingly, registered the same and thus, there is no irregularity.

14. Consideration of facts and circumstances would reveal that the petitioner and the 6th respondent fell in love and continued the same for several years. The petitioner states that she came to know about the character of the 6th respondent at later point of time and decided not to marry the 6th respondent. When such decision has been taken by the petitioner, the 6th respondent cleverly made the petitioner to sign before the Marriage Registrar by creating an impression that the petitioner is going to sign as a witness.

15. Though such statements need not be believed by this Court, the fact remains that the petitioner is not willing to live with the 6th respondent and she has clearly deposed before this Court that she is not intended to



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marry the 6th respondent. Several allegations raised between the parties cannot be adjudicated in a writ proceedings. The scope of the present writ petition is to be confined only with reference to the 'marriage Certificate' issued by the Marriage Registrar and its legal sanctity and the procedures followed as contemplated under the Act and Rules.

16. Since the scope of the present writ petition is limited, this Court is inclined to consider the procedural violations. This Court has gone through Form – II, which is enclosed by the petitioner. Column 9 provides 'declaration clause'. The declaration clause reads as under:

“ We hereby declare:

(i) that a valid marriage was solemnized between us and that the marriage is capable of being registered under Section 3 of the Tamil Nadu Registration Act, 2009;

(ii) that the conditions prescribed in the respective Personal Laws intended for the solemnization of marriages have been satisfied;

(iii) that the particulars given in this memorandum are true to the best of our knowledge and belief;

(iv) that the two witnesses who have signed below were present at the time of the solemnization of the marriage; and

(v) that no dowry was demanded or given or taken.”



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17. It is a declaration made by the parties. However, the Officials are bound to verify the correctness of the statements made between the parties and if those statements are subsequently found to be false or incorrect, then such certificates cannot be acted upon.

For example, a candidate appearing for the Public Service Examination is furnishing certain statements declaring that such statements are true to his knowledge. The Authorities if found that such statements made by the candidates are false, fraudulent or erroneous, then the Authorities Competent are empowered to cancel the application form itself.

However, in the case of marriage certificate, the marriage registering Authority has no power under the Act to cancel the certificate. Since no power vest on the marriage Registrar, the present writ petition came to be instituted.

18. With reference to the violations, the 'Marriage Certificate' suffers from procedural irregularities as the Marriage Registrar fails to note that the application, which is a Statutory Form in Form – I under Rule 5 (1) (a) of the Act has not been submitted as required under Section 6 of the Act. The



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mandatory requirement contemplated is that the signature of the priest, who has solemnized the marriage under the concerned Personal Law must be obtained. However, there is no such signature was made available in the Statutory Form. In the absence of any such signature of the priest in the form, the Registrar ought to have asked the parties to produce the 'Marriage Certificate' from the Temple, where the marriage was said to be solemnized under the Hindu Law. In the absence of any one of the proof to establish that the marriage was solemnized between the parties, the registration becomes void *ab initio*. In the present case, the Priest has not signed in the Statutory form nor the parties have produced the 'Marriage Certificate' from the Temple, where the marriage said to have been solemnized under the Hindu Law.

19. Section 6 of the Act stipulates, that every Memorandum referred to in Section 5 shall be signed by the parties to the marriage and by the priest and two witnesses and shall be accompanied by such fee as may be prescribed. Therefore, signature of the Priest is mandatory under the provisions of the Act. In the present case, admittedly, the Priest has not signed in the Statutory form. The parties have not produced any 'Marriage Certificate' from the temple viz., Sri Prasanna Venkata Narasimha Swamy Thirukoil, Saidapet.



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20. In the absence of any proof to establish that the marriage was solemnized as per Hindu Law, the mandatory requirement under Section 6 of the Act has not been complied with.

21. Yet another procedural irregularity noticed is that the 6th respondent made a false declaration that he is an advocate as on 19.02.2018 i.e., the date on which the application was submitted by the 6th respondent. However, even as per the admission of the 6th respondent, he got enrolled as an advocate in the Bar Council on 26.11.2019, after a lapse of about 1 ½ years from the date of registration of marriage. Therefore, the 6th respondent has given false statement in the Statutory form, which is running counter to the declaration signed by the 6th respondent.

22. Yet another irregularity is that the 6th respondent in column 8 of the application has mentioned “yes” for the question whether the marriage was previously registered under any other Act or Personal Law?, and below the same the 6th respondent in the answer to say 'if “yes” attach certificate has mentioned as “No”. It is a vital fact when the presentant of application states



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incorrect answer by declared that such answers are correct and true.

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23. The above irregularities would reveal that the marriage registering Authority has not verified all the facts and circumstances properly and registered the marriage in a routine manner, which cannot be approved. The marriage Registrar is bound to verify the correctness of the statement by asking the parties to produce necessary documents and thereafter register the marriage. The mandatory requirements under the Act and Rules have to be complied with in all circumstances. Beyond that if any false statements are made between the parties, then such 'Marriage Certificate' is liable to be declared as null and void.

24. In the present case, the petitioner could able to establish that the marriage was not registered in accordance with the provisions of the Act and Rules. Therefore, this Court is inclined to interfere with impugned order. Accordingly, the impugned communication dated 21.07.2023, issued by the 2nd respondent is quashed. Consequently, the 'Marriage Certificate' issued by the Marriage Registrar (Joint-II), Saidapet, Chennai – 600 015 in Marriage Sl.No.35/2018 becomes invalid.



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25. Accordingly, the Writ Petition stands **allowed**. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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O/o.The District Registrar,
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S.M.SUBRAMANIAM,J.

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