



W.P.No.31349 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.31349 of 2023

Rahila Ammara

... Petitioner

Vs.

1. The District Registrar,
Thirukuvalai,
Nagapattinam.

2. The Sub Registrar,
SRO, Thirukuvalai,
Nagapattinam.

3. Mohd Bughair Bin

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 2nd respondent to consider the petitioner's Representation dated 11.07.2023.

For Petitioner : Mr.J.Ramesh

For Respondents : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader,
(for R1 & R2);

No Appearance (for R3).



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ORDER

The writ of mandamus has been instituted to direct the second respondent to consider the representation submitted by the writ petitioner on 11.07.2023.

2. The representation reveals that the marriage between the petitioner and the 3rd respondent was solemnized on 29.01.2016 as per the Mohammedan rites and customs. Both the petitioner and the 3rd respondent, after marriage, resided in Malaysia. The 3rd respondent married another woman and the petitioner got a decree of Divorce from the Shariat Court at Malaysia.

3. The learned counsel for the petitioner would submit that based on the decree of Divorce granted by the Shariat Court at Malaysia, the marriage entry, made under the provisions of the Marriage Registration Act, 2009, in the office of the second respondent, is to be deleted.

4. Such deletion based on the foreign Court decree is not entertainable in a routine manner. A foreign Court decree can be executed with reference to Section 13 and 44(A) of the Code of Civil Procedure. In



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in this context, the country which passed a decree must be a reciprocating territory and the Government of India must notify the said country as a reciprocating territory. The other conditions stipulated are also to be complied with. The decree passed by the foreign Court must be from the highest Court of that country. All these requirements are to be fulfilled for the purpose of executing the decree.

5. Even presuming that such decree is issued in compliance with Section 13 and 44(A) of the CPC. Question arises, a decree of Divorce provides a cause for deleting the marriage entry made under the provisions of the Marriage Registration Act, 2009. Once the marriage is solemnized between the parties, under the personal law and such marriage has been registered before the Sub Registrar under the provisions of the Marriage Registration Act, 2009, then the entry or the certificate of marriage can be cancelled only if the marriage has been declared as null and void or the registration has been done in violation of any of the provisions of the Marriage Registration Act, 2009, or the rules framed thereunder.

6. A decree of Divorce would not provide a cause for deleting the entries made in the Marriage Register. The registration of the marriage has



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been admitted between the parties and a decree of divorce has been obtained and thereafter, deleting the entries from the Marriage Register, under the provisions of the Marriage Registration Act, is impermissible. Therefore, the petitioner is at liberty to secure an appropriate decree from the competent Court in India or to get a decree of Divorce for the Indian Court for the purpose of taking further decisions regarding her future.

7. As far as the relief sought for in the present writ petition, to consider the representation, is concerned, such directions would do no service to the cause of justice. The litigant will be back again by approaching the Court and therefore, the parties have to adjudicate the issues at all circumstances on merits in order to resolve the same.

8. Thus, the writ petition stands dismissed with a liberty to the petitioner to approach the competent Court for securing remedy in the manner known to law. However, there shall be no order as to costs.

15.04.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)



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To
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Thirukuvalai,
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S.M.SUBRAMANIAM. J.,

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