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W.P.No.34418 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition No.34418 of 2024

August Pedre
Rep.by his Power Agent
Gobady Marc
No.3/1, Soolaimdhu
III Cros, Nethaji Nagar
Uppalam II
Puducherry 605 001.

.... Petitioner

-Vs-

The Sub Registrar
Pondicherry Municipality
Puducherry 605 001.
Respondent

..

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent vide impugned order No.PM / RBD/ C3/ 2024/ 1793 dated 03.09.2024 and quash the same and consequently direct the respondent to make an endorsement on the relevant marriage register of the respondent within the time limits as fixed by this Honble court.



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For Petitioner : Mr.P.Suresh

For Respondent : Mr.R.Sreedhar
Additional Government Pleader
(Puducherry)

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus calling for the records of the order No. PM / RBD/ C3/ 2024/ 1793 dated 03.09.2024 and set aside the same and direct the respondent to make an endorsement in the relevant marriage register of the respondent.

2.In the affidavit filed in support of the writ petition, the power of attorney agent of the writ petitioner had stated that the writ petitioner had married Daisy Andony on 23.09.2019 and the marriage was registered before the Sub-Registrar at Pondicherry Municipality on 23.09.2019. The petitioner and his wife were living in France. She left the matrimonial house on 16.03.2020. Thereafter, the petitioner had filed an application seeking divorce on 08.06.2020 before the Family Affairs Judge, Judicial Court of Pontoise at France. The case had been admitted and an order had been passed on 30.06.2022 annulling the marriage. The petitioner now states that necessary endorsement should be made in the



relevant marriage register of the respondent.

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3.A counter affidavit had been filed by the respondent, wherein it had been stated as follows:

“4.I respectfully submit that this respondent being the Officer of Civil Status as per the French Civil Code registered the marriage of the petitioner herein as per the provisions of Article 75 of the Fresh Civil Code that governs the registration of marriages celebrated among French nationals or between a French national and an Indian National. Thus, the marriage celebrated by the petitioner does not come under the purview of either the Hindu Marriage Act, 1955 or the Special Marriage Act, 1954.

5.I respectfully submit that this respondent duly considered the application of the petitioner herein and issued the rejection communication on the strength of the provisions of Section 13 of the Code of Civil Procedure, 1908 which mandates that a foreign judgment cannot be enforced unless it passes the conclusiveness test under Section 13 and to obtain a decree that can be executed, a suit must be filed on a foreign judgment. Further I humbly submit that the petitioner herein may take recourse to filing an execution petition before the Hon'ble District Court under the provisions of Section 44A of the Code of Civil Procedure, 1908 and thus duly authenticate the divorce order issued by the Hon'ble



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Family Affairs Judge, Judicial Court of Pontoise, France”.

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C.V.KARTHIKEYAN.,J
KP

4.It is thus seen that a suit will have to be filed in accordance with Section 44 A of the Code of Civil Procedure, 1908. A mandamus in this regard cannot be issued by this Court. Neither can the order can be set aside by this Court. The petitioner's remedy lies before the Civil forum and not before this Court. Granting liberty to the petitioner to approach the Civil Court in accordance with law, the Writ Petition stands disposed of. No costs.

09.12.2024

Index : Yes/No
NCS : Yes/No
KP

To

The Sub Registrar
Pondicherry Municipality
Puducherry 605 001.

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