



W.P(MD)No.14380 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14380 of 2024

and

W.M.P.(MD)No.12604 of 2024

Ramachandran

... Petitioner

Vs.

1.The District Registrar,
Registration Department,
Thanjavur District,
Thanjavur.

2.The Sub Registrar,
Sub Registrar Office,
Thiruvadaimaruthur,
Thanjavur District.

... 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 records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.132/2024 dated 02.05.2024 and quash the same as illegal and consequently direct the 2nd respondent to issue the marriage certificate to the petitioner's son namely Dasarath Ramraj within a time frame by this Court.

For Petitioner : Mr.M.Jerin Mathew

for Mr.T.Palanisamy



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For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

Heard both sides.

2. The petitioner's son Dasarath Ramraj got married to D.Raja Lakshmi on 10.11.2019 as per Hindu rites and customs. Two children have been born through the wedlock. The marriage was omitted to be registered. Now the petitioner's son's family are at Oman. For immigration purpose, the authorities are insisting on the marriage certificate. Therefore, the present representation was made by the petitioner. The registering authority has raised two objections. The marriage was not registered within 90 days. The registering authority had also taken the stand that the parties ought to have appeared in person along with two witnesses. In these circumstances, registration was refused. Challenging the same, the present writ petition came to be filed.

2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



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3. The learned Special Government Pleader on the other hand submitted that the stand of the second respondent is in consonance with the statutory scheme.

4. I carefully considered the rival contentions and went through the materials on record.

5. Tamil Nadu Registration of Marriages Act, 2009 was passed following the Judgment of the Hon'ble Supreme Court made in ***AIR 2006 SC 1158 (Seema Vs. Ashwani Kumar)***. The Hon'ble Supreme Court observed that the marriages of all persons who are citizens of India belonging to various religions should be made compulsorily registrable in the respective states, where the marriage is solemnized. Section 3 of the Act mandates that every marriage performed on and from the date of commencement of the Act should be registered. In this case, marriage between the petitioner's son and Rajalakshmi took place on 10.11.2019. Section 5 no doubt stipulates that marriage should be registered within 90 days. There is a provision for registering the same after the expiry of further period of 60 days. But one cannot conclude that after the expiry of 150 days from the date of marriage, marriage cannot be registered at all. Rule 5(3)(a) provides for registration of marriage even thereafter on payment of fee of Rs.150/-.



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6. In these circumstances, the only objection that can be taken is that the parties should appear before the registering authority. This objection is again without any substance. Section 5 of the Act, 2009 enables the registrar to register a marriage even in the absence of the parties by recording the special circumstances for not presenting the memorandum in person.

7. Looked at from any angle, the objections raised by the second respondent are not sustainable. In these circumstances, the impugned memorandum is set aside. The parties namely Dasarath Ramraj & D.Raja Lakshmi are at liberty to submit the memorandum of marriage under Section 5 of the Act r/w Rule 5(3)(a) through any authorised representative. On receipt of the said memorandum, subject to fulfilment of usual formalities, the second respondent shall register the same.

8. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

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

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