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Najma Vs Registrar General of Marriages and Another

Writ Petition (C) No. 20188 of 2010

Court: High Court Of Kerala

Date of Decision: Jan. 20, 2012

Acts Referred:
Kerala Registration of Marriages (Common) Rules, 2008 â€" Rule 6

Citation: (2012) 1 KLJ 726

Hon'ble Judges: C.K. Abdul Rehim, J

Bench: Single Bench

Advocate: Rajit and Ranjit Babu, for the Appellant; M. Muhammed Shafi (GP) and P. Ramachandran, for the Respondent

Judgement

C.K. Abdul Rehim, J.
Petitioner is aggrieved by non acceptance of an application submitted before the 2nd respondent for registration of

her marriage, under the provisions of Kerala Registration of Marriage (Common) Rules, 2008. According to her she married a person of Indian

Origin, who subsequently acquired citizenship of United Arab Emirates (UAE). Exhibit Ext.P3 is the relevant extract of the Passport of the person

who married the petitioner and Ext.P4 is the ""Person of Indian Origin Card (PIO card)"" held by the said person. The marriage was solemnised as

per religious rites and customs and it is registered at "Kottol Mahallu Juma Masjid". The Secretary of the Juma Masjid had issued Ext.P2 Marriage

Certificate about conduct of the marriage as per religious rites. Complaint of the petitioner is that 2nd respondent has not received the application

for registration submitted as per Ext.P5, stating reasons that, both the spouses should appear in person for submitting such application and that a

marriage in which a foreign national is one of the parties cannot be registered under the said Rules.

2. Heard, Learned Counsel for the petitioner and the standing counsel appearing on behalf of 2nd respondent. With respect to the first objection

that both the parties should appear in person at the time of submitting the application, it is pointed out, that the issue is now stands covered through

a decision of this Court in Sarala Baby v. State of Kerala, 2010 (2) KHC 334. It is held that there is no need for personal appearance of the

parties to the marriage, for presenting the application for registration.

3. Counsel for the petitioner also submitted that there is no bar under the Kerala Registration of Marriage (Common) Rules, 2008 in registering any

marriage solemnised within the state, even if one of the parties is a foreign national. He has drawn my attention to the decision of the Hon"ble

Supreme Court in Seema v. Aswani Kumar, 2006 (1) KLT 791 (SC) in which a direction was issued to all state Governments to formulate Rules

for compulsory registration of marriages, irrespective of religion of the parties. Rule-6 indicates that all marriage solemnised within the state should

compulsory be registered, irrespective of religion of the parties. Nowhere in the Rules it can be noticed any insistence about nationality of the

parties contracting the marriage. On consideration of the relevant personal law (Mohammedan Law) no prohibition can be pointed out with respect

to a foreign national marrying an Indian lady, if both of them are professing the religion of Islam. Hence I am of the view that objection raised by

the 2nd respondent for registration of marriage are unsustainable. Under the above mentioned circumstances the writ petition is allowed. The 2nd

respondent is directed to receive Ext.P5 application and to dispose of the same by registering the marriage as applied for, if the petition is

otherwise eligible.