
(2021) 06 KL CK 0067
In the High Court Of Kerala
Case No : Writ Petition No. 11576 Of 2021

Beffy Jeelson

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 03-06-2021

Acts Referred:

Cochin Christian Civil Marriage Act, 1920 — Section 7, 10, 19, 22

Citation : (2021) 06 KL CK 0067

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : Franklin Arackal, P.D.Jayan Mon, M.B.Soori, Princy Xavier

Final Decision : Disposed Of

Judgement

N.Nagaresh, J

1. The 1st petitioner is a holder of BDS and belongs to Roman Catholic community, having residence in Madakkathara Grama Panchayat in Thrissur

District. The 2nd petitioner is a US Citizen of Indian origin, belonging to Poonjar in Kottayam District.

2. Petitioners 1 and 2 proposed to marry each other with the blessings of their family and an engagement was held at Poonjar on 17.05.2019. The

marriage was scheduled to be held on 15.05.2020. Unfortunately, due to the Covid-19 pandemic and the consequential lockdown, the marriage did not

take place as planned.

3. The petitioners thereupon postponed the proposed marriage to 15.05.2021. The 2nd petitioner, with a view to get married, came to India again in the

month of May, 2021. He has to go back to U.S. by 05.06.2021, as his VISA is expiring. As the petitioners could not have invoked the Special

Marriage Act for registering the marriage due to the requirement of 30 days notice period, the petitioners decided to solemnise their marriage under the Cochin Christian Civil Marriage Act, 1920.

4. On 25.05.2021, the 1st petitioner gave Ext.P4 notice of marriage to the 2nd respondent. The notice was given under Section 7 of the Cochin

Christian Civil Marriage Act. The notice was given to the 2nd respondent as the 3rd respondent-Sub Registrar was not functioning on that date.

5. The petitioners submitted Exts.P5 and P6 affidavits also before the 2nd respondent. Apart from the said affidavits, two affidavits of the witnesses,

Exts.P7 and P8, were also filed before the 2nd respondent. However, it is the contention of the petitioners that the 2nd respondent did not act on the

application. It is also submitted that now the 3rd respondent is in office and can discharge the functions under the Cochin Christian Civil Marriage Act,

1920.

6. The learned Government Pleader submitted that the petitioners have not made out a case of urgency in the writ petition so as to seek immediate

relief. No customary marriage has taken place in respect of the petitioners. Though this Court has delivered certain judgments in favour of certain

other petitioners, in all those cases, customary marriages were already held. In this case, no customary marriage has taken place between the

petitioners and therefore no relief can be given to the petitioners.

7. Heard learned counsel for the petitioners and learned Government Pleader representing the respondents.

8. The fact remains that the petitioners proposed to get married and underwent an engagement ceremony on 17.05.2019. The marriage could not take

place on 15.05.2020 due to Covid-19 pandemic. The 2nd petitioner had to leave to U.S. immediately thereafter. The petitioners therefore postponed

their marriage to 15.05.2021. The 1st petitioner has given Ext.P4 notice to the 2nd respondent on 25.05.2021 seeking to solemnise their marriage,

invoking Section 7 of the Cochin Christian Civil Marriage Act.

9. The office of the 3rd respondent was not functioning as on the date of issue of notice on 25.05.2021. It is therefore that the 1st petitioner had given

notice to the 2nd respondent. It is true that the notice has to be published before the solemnisation of marriage under the Act. Had the 2nd respondent

published the notice on 25.05.2021 itself, the marriage could have been

solemnised as required under Section 19 of the Act.

10. The unfortunate situation has cropped up due to Covid-19 pandemic which is still subsisting. In the Indian societal context, postponing a marriage

already fixed for whatever reason, is considered as ominous. The petitioners were forced to postpone the date of marriage once due to nationwide

lockdown. The marriage cannot be again postponed due to pandemic. Human life and relations have to move on and the mankind has to prevail upon

viruses. In the peculiar circumstances of this case, it will be very harsh if the petitioners are not permitted to get their marriage solemnized as planned

and before the 2nd petitioner goes to U.S. On 05.06.2021. In the peculiar facts of this case, this Court is of the opinion that the respondents should be

directed to solemnise the marriage of the petitioners forthwith on equitable grounds.

11. In the circumstances, the 2nd respondent is directed to transfer all the records accompanying Ext.P4 notice issued by the petitioners, to the office

of the 3rd respondent forthwith, at any rate, before 10.30 a.m. on 04.06.2021. The 3rd respondent is directed to obtain oath of the 1st petitioner and

issue a Certificate under Section 10 forthwith. After issuing a certificate, the marriage between the petitioners should be solemnised under Section 19,

on 04.06.2021 itself. In the facts of the case, the 3rd respondent may dispense with the requirements of issuing notice on Marriage Registrars of other

local areas. The marriage between the petitioners shall be solemnised and registered under Section 22 if both of them present themselves before the

3rd respondent on 04.06.2021. It is made clear that the requirements as to notices under the Cochin Christian Civil Marriage Act are waived in this

case on equitable grounds and in view of the peculiar circumstances arising in this case due to Covid-19 pandemic.

The writ petition is disposed of as above.