

(2012) 09 KL CK 0068

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 18826 of 2012 (C)

Febin Antony Francis and Vipina Wilson

APPELLANT

Vs

The Sub Registrar Vatanappally, Thrissur District-680614 and
State of Kerala

RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:

Cochin Christian Civil Marriage Act, 1905 — Section 10

Citation : (2012) 09 KL CK 0068

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : Nagaraj Narayanan, Sri. Saijo Hassan, Sri. Benoj C. Augustine, Sri. Sebin Thomas, Sri. Prathap Pillai, Sri. I.J. Augustine, Smt. J. Kasthuri, Sri. G. Rajesh Diwan and Sri. Swathy Das, for the Appellant; K.C. Vincent, Government Pleader, for the Respondent

Judgement

T.R. Ramachandran Nair, J.—The petitioners are seeking for a direction to the 1st respondent to register their marriage as per the Cochin Christian Civil Marriage Act. The petitioners are Roman Catholics and are hailing from the erstwhile Cochin State. Exhibit P1 is stated to be an application submitted by the petitioners. It is averred in paragraph No. 3 of the Writ Petition that the 1st petitioner has completed 21 years of age and the 2nd petitioner has completed 20 years of age. They are living together for the last one year. Parents of the first petitioner are ready to accept their relationship, but the parents of the 2nd petitioner are not ready to accept the same. The petitioners have not solemnized or registered their marriage under any of the prevailing laws for the reason that the 2nd petitioner has not completed 21 years of age. In the statement filed by the 1st respondent, the stand taken is that under the Cochin Christian Civil Marriage Act, the marriage can be registered only if the parties have attained the age of 21, wherein the 2nd petitioner herein has not attained the age of 21. Even though the 1st respondent directed the 1st petitioner to produce the consent of the parents or guardian of the 2nd petitioner to register the marriage, that was

not produced. Therefore it is pointed out that going by Section 10 of the Act, various procedures will have to be satisfied. Therefore the 2nd petitioner being a minor in terms of the provisions of the Act, unless the consent is there of the parents, it cannot be registered, it is stated.

2. The learned counsel for the petitioners submitted that the provisions of the Act cannot be sustained in the light of the various provisions concerning age in similar enactments. But as far as the question herein is concerned, since there is no challenge against the provisions of the Act and as the petitioners are seeking only for a direction to register their marriage and as there are no provisions to exempt the petitioners from the rigour of the provisions, the direction sought for cannot be granted. On the 2nd petitioner completing the age of 21, it is open to the petitioners to approach the 1st respondent to register their marriage under the Cochin Christian Civil Marriage Act or if the petitioners desire so, they can approach the Marriage Registrar under the Special Marriage Act.

The Writ Petition is disposed of as above.