

(2013) 04 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7163 of 2013

Mandeep Kaur and Another	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 08-04-2013

Acts Referred:

Special Marriage Act, 1954 — Section 15

Citation : (2013) 171 PLR 113

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Mandeep Kumar Dhot, for the Appellant;

Final Decision : Allowed

Judgement

Rajiv Narain Raina, J.—Learned counsel for the petitioners has produced Air tickets of Gurdeep Singh which shows that he has to board the plane on 17.04.2013 for the flight from Delhi to Kuala Lumpur on the Malaysia Airlines. Therefore, there is urgency in the matter. Download of the tickets produced are taken on record as Mark "A". The prayer made by the petitioners in the instant petition is that a direction be issued to the Naib Tehsildar cum Marriage Registrar, Malerkotla, District Sangrur-respondent No. 3 to register their marriage under the Hindu Marriage Act, 1955. The marriage of petitioners was solemnized on 08.03.2006 and since the respondents had refused to register the same, they have filed the instant petition with the aforesaid prayer. The reason for refusing registration of the marriage of the petitioners was that petitioner no. 2 was less than 21 years of age on the date of marriage.

Notice of motion.

Mr. Amrit Pal Singh Gill, learned Assistant Advocate General, Punjab accepts notice on behalf of the respondents.

2. In view of the nature of the order proposed to be passed, there may be no necessity for calling response from the State.

3. The facts of the case reveal that petitioner No. 2 at the time of making of the application had acquired the statutory age of marriage and even on the date of marriage he was barely short of the requisite age. The Supreme Court in the case *Smt. Seema Vs. Ashwani Kumar*, has issued comprehensive directions to all the States and the Central Government to take necessary steps for making registration of the marriages of persons belonging to all religions as a compulsory step. For the purposes of reference relevant portion of the judgment is extracted as under:-

(i) The procedure for registration should be notified by respective States within three months from today. This can be done by amending the existing rules, if any, or by framing new rules. However, objections from members of the public shall be invited before bringing the said rules into force. In this connection, due publicity shall be given by the States and the matter shall be kept open for objections for a period of one month from the date of advertisement inviting objections. On the expiry of the said period, the State shall issue appropriate notification bringing the rules into force.

(ii) The officer appointed under the said rules of the States shall be duly authorised to register the marriages. The age, marital status (unmarried, divorce) shall be clearly stated. The consequence of non-registration of marriages or for filing false declaration shall also be provided for in the said rules. Needless to add that the object of the said rules shall be to carry out the directions of this Court.

(iii) As and when the Central Government enacts a comprehensive statute, the same shall be placed before this Court for scrutiny.

(iv) Learned counsel for various States and Union Territories shall ensure that the directions given herein are carried out immediately.

4. The reasoning adopted by the respondents that petitioner No. 2 was not of marriageable age on the date of solemnization of marriage, if accepted would just defeat the very intent of the intended benefit of the directions given by the Supreme Court. But this Court hastens to add here that it does not imply that the statutory provisions of law have to be given a go-bye. On the date of application for registration of marriage, if all other requirements of law including age are satisfied then the registration of marriage ought not to be refused on any ground except for the ones which are specified in Section 15 of the Special Marriage Act, 1954. All that is required to be seen is that conditions as contained in Section 15 of the Special Marriage Act are fulfilled. The said conditions are enumerated hereinbelow:- (a) a ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since;

(b) neither party has at the time of registration more than one spouse living;

(c) neither party is an idiot or a lunatic at the time of registration;

(d) the parties have completed the age of twenty-one years at the time of registration;

(e) the parties are not within the degrees of prohibited relationship.

As observed in the foregoing paragraphs the registering authority is merely to see that there is a valid subsisting marriage and the parties have completed the age of 21 years at the time of registration and the parties are not within the degree of prohibited relationship and neither of the party is an idiot or lunatic at the time of marriage and further none of the parties has more than one living spouse. Having regard to the aforesaid, instant petition is allowed with a direction to the respondents to forthwith register the marriage of the petitioners, however, subject to the satisfaction of the compliance of the conditions enumerated above. The marriage certificate be issued to the petitioners on or before 12.04.2013. A copy of this order be given to the learned counsel for the parties under signatures of the Bench Secretary.