

(2010) 09 KL CK 0141

In the High Court Of Kerala

Case No : Writ Petition (C) No. 9684 of 2009 (R)

Sali and Others

APPELLANT

Vs

Shri Santhosh

RESPONDENT

Date of Decision : 23-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0141

Hon'ble Judges : R. Basant, J;M.L. Joseph Francis, J

Bench : Division Bench

Advocate : Sumathy Dandapani, for the Appellant; P. Santhosh, for the Respondent

Final Decision : Dismissed

Judgement

R. Basant, J.—The learned Counsel for the petitioners submits that in the light of the order dated 27.03.2009 passed by another Bench of this Court, this Writ Petition and even O.P. No. 377 of 2009 pending before the Family Court, Trichur (from an interim order in which this Writ Petition came up) have all become unnecessary and infructuous now. The 1st petitioner has already contracted a marriage consequent to an order of stay passed by this Court on 27.03.2009. The learned Counsel for the petitioners, in these circumstances, submits that these facts may be recorded. It may be noted that in the light of these facts, this Writ Petition has become unnecessary and infructuous. Proceedings may hence be closed, it is submitted.

2. The learned Counsel for the respondent does not dispute the fact that this petition has now become infructuous. However, the learned Counsel for the petitioners submits that O.P. No. 377 of 2009 when it was filed before the Family Court, Trichur, was only a petition with a prayer for injunction. Now in the light of the turn of events subsequent to the order dated 27.03.2010 passed by this Court, the petitioner wants to move the Family Court to amend the said O.P and seek a declaration of nullity of the alleged marriage which has taken place on 29.03.2009. While dismissing this petition, it may be made clear that the

respondent's right to move the court below for amendment of O.P. No. 377 of 2009 shall remain unfettered, it is prayed.

3. We have considered the submissions. We are satisfied that this Writ Petition has now become unnecessary and infructuous. This Writ Petition can, in these circumstances, be dismissed. But at the same time we find merit in the contention of the learned Counsel for the respondent that the dismissal of this Writ Petition should not in any way affect the right of the respondent to seek amendment of O.P. No. 377 of 2009 pending before the Family Court, Trichur. The respondent can file an application for such amendment if he is so advised. The Court below must consider such application on merits and pass appropriate orders. We make it clear that we have intended to express no opinion on merits about the acceptability of such a prayer if made.

4. This Writ Petition is, in these circumstances, dismissed as not pressed with the above observations.