
(2013) 08 AHC CK 0012
In the Allahabad High Court
Case No : C.M.W.P. No. 31181 of 2013

Satyam Kumar and Another	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : (2014) 1 ALJ 204 : (2013) 101 ALR 60 : (2013) 6 AWC 6004

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Advocate : Hari Bans Singh and Chandrika Prasad, for the Appellant; Devesh Vikram, for the Respondent

Judgement

Pankaj Mithal, J.—Heard Sri Chandrika Prasad, learned counsel for the petitioners and Sri Devesh Vikram, learned counsel for the respondent No. 4. Learned standing counsel has appeared for respondents No. 1, 2 and 3, Sri Daya Shankar Pandey, Nagar Magistrate/Marriage Officer, Nagar Khestra, Mirzapur is also present. Petitioners Satyam Kumar and Meera Singh Yadav have jointly filed this petition seeking protection to their married life on the allegation that they have married of their own freewill before the Marriage Officer on 10.1.2012. The affidavit in support of the petition is sworn by petitioner No. 2 Meera Singh Yadav.

2. Sri Devesh Vikram on behalf of respondent No. 4 has filed counter-affidavit which is sworn by none other than petitioner No. 2 Meera Singh Yadav.

3. The two affidavits on record are in conflict with one another. In one affidavit petitioner No. 2 states that she has married with petitioner No. 1 and in the other she denies the marriage.

4. It appears that petitioner No. 2 submitted the first affidavit on the dictates of petitioner No. 1 with whom she is said to have married. Her other affidavit which is in the form of counter-affidavit appears to have been given by her under-pressure from her father as presently she is in his care and custody.

5. Petitioner No. 2 Meera Singh Yadav, is present in court. She states that she is presently living with her parents but is not happy as she wants to live with petitioner No. 1 and does not want to remarry with any person of the choice of her parents. However, she is unable to explain as to in what way or manner her marriage with petitioner No. 1 was solemnized. She says that the marriage took place before the Registrar of Marriage/Marriage Officer.

6. The Marriage Officer, Mirzapur is present with the record, i.e., the register and he informs that no marriage between the petitioners was ever solemnized or registered before him on 10.1.2012 and the marriage certificate which has been enclosed with the writ petition as part of Annexure-4 is not a certificate which has been issued from his office.

7. A perusal of the aforesaid marriage certificate on page 22 of the writ petition reveals that it does not anywhere bear the name and seal of the said Marriage Officer. District Mirzapur rather it discloses that it has been issued by one Kamta Prasad, M.A., B.Com., L.L.B. Advocate exercising power of the Marriage Officer.

8. Sri Pandey, confirms that the aforesaid advocate was never a Marriage Officer authorised to register any marriage.

9. No advocate has been delegated or assigned any powers of the Marriage Officer, therefore, the aforesaid Kamta Prasad is not a person authorised to act as a Marriage Officer and to register any marriage. The aforesaid marriage certificate as such is a nullity and a void document.

10. In view of the aforesaid facts and circumstances, as there is no reliable proof of marriage of the petitioners, their marriage cannot be recognised in law, specially in exercise of writ jurisdiction.

11. The marriage, if any, between the petitioners would be subject to declaration of their rights/status thereof by the competent court or due and proper registration of their marriage in accordance with law.

12. The court wanted to take stern action against the advocate issuing the marriage certificate unauthorisedly but the learned standing counsel informs that on inquiry being made from the residence of the aforesaid advocate it has been revealed that he has died on 22.12.2012 and his death is registered with the Registrar of Births and Deaths Mirzapur. In view of the above and the photocopy of death certificate produced which is taken on record, no action for unauthorisedly issuing marriage certificate can be taken against the advocate.

13. Accordingly, the protection which has been claimed in this writ petition cannot be extended to any of them. No case for exercise of discretion in favour of the petitioner has been made out. The writ petition is dismissed.