

(2013) 05 P&H CK 0187
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10643 of 2013

Sonia Giri and Another

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 16-05-2013

Acts Referred:

Special Marriage Act, 1954 — Section 15

Citation : (2013) 3 DMC 278 : (2013) 171 PLR 321

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Sanjeev Banga, for the Appellant;

Final Decision : Allowed

Judgement

Rajiv Narain Raina, J.—The petitioners seek a direction for registration of their marriage. The petitioners' grievance is that the Registering Officer-respondent No. 2, requires the concurrence of the parents of both the parties to the marriage for purposes of registration. Since they have married against the wishes of the parents of petitioner No. 1, the contention in the writ petition is that, it will not be possible to secure their presence or concurrence. The insistence for adopting such a course by the Registering Officer is not in accordance with law. The facts of the case reveal that the petitioners entered matrimony on 12.12.2011 under Sikh rites and ceremonies at Gurudwara Bunga Sahib, Panth Budha Dal, Majari Chownk, Sector-2, Panchkula. The marriage was performed against the wishes of the parents of petitioner No. 1-wife. According to the petitioners, they fulfill all the legal requirements as to their entitlement for registration of marriage but the marriage registration file has not been accepted by respondent No. 2 on the pretext that presence of parents of petitioner No. 1-wife is also required. 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 marriages of persons belonging to all religions as a compulsory step. For the purposes of

reference, relevant portion of the judgment is extracted below:-

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.

2. The aforesaid directions issued by the Supreme Court are intended to beneficially effect the society at large which is riled with serious litigation on account of marriages being performed by desirous persons without parental consent. It also erases serious friction in the society on account of inter religious and inter caste marriages. To obviate such unwarranted situations, these directions have necessarily to be strictly adhered to. The reasoning adopted by the respondents that the presence of parents of petitioner No. 1 is a must for registration of marriage, if accepted would just defeat the very intent of the intended benefit of the directions given by Supreme Court. But this Court hastens to add 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 parents of petitioner No. 2-husband had given their consent and accepted petitioner No. 1 as their daughter-in-law and are present before respondent No. 2, and 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.

3. 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 degrees 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.

4. Learned counsel for the petitioners has relied upon a judgment of this Court in *Aarti Singh v. Chief Registrar under Registration of Marriage Act, Haryana, Chandigarh and others* (CWP No. 2480 of 2011), wherein it was observed as under:-

Adults, who marry on their own accord with or without the consent of parents, cannot be made to run from pillar to post and it is the duty of the State to make the registration machinery move fast with sufficient unction to secure registrations without any stumbling block. I cannot take an averment in the petition that the Registering Officer requires a concurrence of the parents as a statement made only for the purpose of the petition. There is hardly a reason for the petitioners to make such a statement, unless it was true. It would mean serious dereliction of duty if Registering Officers draw their feet when young couples arrive with bated breath to seal their marriages to safety but obstructed by corrupt or inept officials at the registration department.

Having regard to the aforesaid, the instant petition is allowed with a direction to the respondents to forthwith register the marriage of the petitioners if there is no other legal impediment and subject to the satisfaction of the compliance of the conditions enumerated above.