

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

TUESDAY, THE 22ND DAY OF JUNE, 2021 / 1ST ASHADHA, 1943

WP(C) NO. 11789 OF 2021

PETITIONER:

RAPHY ANTHONY CHAKKALAKKAL
AGED 58 YEARS
CHAKKALAKKAL HOUSE, OLLUR,
THRISSUR-680306.

BY ADVS.
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SRI.AKHIL SURESH

RESPONDENT:

REGISTRAR OF MARRIAGES
OFFICE OF THE REGISTRAR OF BIRTHS AND DEATHS,
THRISSUR CORPORATION, MUNICIPAL OFFICE ROAD,
THRISSUR, KERALA-680001.

BY ADV. SHRI. SANTHOSH P.PODUVAL, SC, THRISSUR
CORPORATION
SMT. CHITHRA S. BABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22.06.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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J U D G M E N T

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Dated this the 22nd day of June, 2021

The petitioner seeks to direct the respondent-Registrar of Marriages to register the marriage of the petitioner's son Mr. Steffin Raphy with Mrs. Rachel Teresa without insisting for their personal presence and signature and to issue Marriage Certificate to them, at the earliest.

2. The petitioner states that he is father of Mr. Steffin Raphy who is aged 31 years and now residing at Dubai. Mr. Steffin Raphy married Mrs. Rachel Teresa who is also residing in Dubai. The marriage was solemnised on 30.11.2020 as per Christian rites at Sacred Heart Latin Church, Thrissur. Ext.P2 provisional certificate of marriage was issued by the Sacred Heart Latin Church, Thrissur. The marriage was published with photographs on Malayala Manorama newspaper as per Ext.P3.

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3. The newly wedded couple had to go to Dubai immediately after the marriage. The couple intended to return home for Christmas and to apply for the Certificate of Marriage from Registrar of Marriages. However, due to the onset of UK strain of Covid-19 in UAE, international flights were cancelled and the couple could not come to the native place.

4. The petitioner would submit that the pandemic situation in UAE further worsened and a travel ban is in force. By the time, the couple were blessed and a baby is due to be born in August, 2021. To obtain passport for a child, it is mandatory that the marriage of the father and mother is registered. The UAE laws do not recognise marital status unless the marriage is registered in accordance with the law of the original country. In the absence of a officially registered marriage, the couple will be exposed to possibility of criminal prosecution as per the stringent laws of Dubai.

5. The petitioner therefore made efforts to make an application on their behalf before the Registrar of Marriages, but it was of no avail since the Registrar insisted on personal

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appearance of the applicants. It is under such circumstances that the petitioner seeks to direct the respondent-Registrar of Marriages to register the marriage of the petitioner's son and daughter-in-law without insisting for their personal presence.

6. The learned Standing Counsel for the respondent submitted that neither the husband nor the wife has made any application for the registration of the marriage. Even in this writ petition, the husband and wife are not parties. The writ petitioner does not hold Power of Attorney of his son or daughter-in-law. Therefore, the writ petition should not be entertained.

7. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

8. Ext.P1 is the wedding invitation card in respect of the marriage of petitioner's son with Rachel Teresa. Ext.P2 is a Certificate of Marriage issued by the Sacred Heart Latin Church, Thrissur, of Kottapuram Diocese. From Ext.P2, it is seen that the marriage was solemnised on 30.11.2020. Ext.P3 is a marriage photograph. In view of Exts.P1 to P3,

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this Court finds no reason to disbelieve the factum of solemnisation of marriage.

9. The issue arose due to the Covid-19 pandemic situation and consequential travel ban imposed by UAE, due to which neither the petitioner's son or daughter-in-law could come to India for registering the marriage officially. The daughter-in-law is carrying and the couple are likely to be exposed to criminal prosecution in Dubai. These facts are not disputed. The marriage is sought to be registered under the Kerala Registration of Marriages (Common) Rules, 2008.

10. This Court had occasion to decide on a similar issue in the judgment in ***Mathew T.K. v. Secretary and Registrar of Marriages, Alappuzha and another*** [2020 (4) KLT 853]. This Court in the afore judgment relied on an earlier judgment in ***Pardeep Kodiveedu Cletus v. Local Registrar of Marriages (Common)*** [2018 (1) KLT 292] wherein it was held that for the purpose of registration of already solemnised marriages, in extreme cases where the parties find it difficult to personally appear before the notified

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Registrar for registration of their already solemnised marriage, the same could also be effected through the process of video conferencing. The facts in the judgment in **Mathew T.K.** (supra) are similar to the facts in this writ petition.

11. In the circumstances, following the afore judgment, this writ petition is allowed with the following directions:-

(i) The respondent-Registrar of Marriages/Secretary of the Grama Panchayat will act upon the application that may be submitted by the petitioner for registration of marriage, on behalf of his son Mr. Steffin Raphy and Mrs. Rachel Teresa. The factual aspects in that regard may be immediately ascertained. The petitioner will provide video conferencing facility to enable the respondent-Registrar to interact with the above said couple to ascertain the factum of the solemnisation of the marriage and also as to whether they have authorised the petitioner and his wife to be the signatories in the marriage register for and on behalf of the said couple.

(ii) The petitioner will file an affidavit stating that he has been fully authorised by the bridegroom, to sign the marriage

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register for and on behalf of the bridegroom and the petitioner's wife will also file a separate affidavit to the effect that she has been duly authorised by the bride to sign the marriage register for and on behalf of the bride.

(iii) If it is ascertained that the petitioner herein and his wife (who are the parents of the bride groom) have been authorised by the said couple to sign the marriage register for and on behalf of the bride groom and the bride respectively, then after completing the necessary formalities, the respondent will permit the petitioner herein to sign in the marriage register for and on behalf of the bride groom and the petitioner's wife should be permitted to sign the marriage register for and on behalf of the bride.

(iv) Thereafter, the respondent will forthwith issue the certificate of the registration of the marriage to the petitioner herein regarding the factum of the solemnisation of the marriage of the above said couple.

(v) Further it is ordered that the respondent will ensure that the column immediately after the column, which is to be

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signed by the petitioner and his wife in the marriage register, shall be left blank and registration of the further marriages should be endorsed and entered only in the column subsequent to the said vacant space in the marriage register. It is further ordered that the above said couple, shall personally appear before the respondent-Registrar and shall personally sign in the vacant column of the said marriage register within a period of 12 months from the date of issuance of the marriage certificate as afore stated. In case the above said couple do not comply with the above said directions and they do not personally appear and sign in the marriage register before the respondent within the said outer time limit of 12 months from the issuance of the above said marriage certificate, then the respondent-Registrar will be at liberty to issue notice to the petitioner herein and give opportunity to the couple to personally report before him within a short time as may be given by the respondent and still if the couple does not comply the said direction, then the respondent-Registrar will be at liberty to take steps to revoke the said registration and

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consequently to revoke the certificate of marriage so given. Thereupon, the couple will be liable to surrender the original of such certificate of marriage to the respondent-Registrar. But, such action of the respondent will be without prejudice to the right of the couple to subsequently approach the respondent to seek for fresh registration of the solemnised marriage in accordance with the Rules. But, in such an eventuality they will have to personally appear and sign in the marriage register.

The petitioner will ensure that the above said affidavits as well as video conferencing facility are provided without any further delay. The petitioner will produce a certified copy of the judgment along with the copy of the memorandum of writ petition with all the exhibits before the respondent-Registrar of Marriages for necessary information and further action.

Sd/-
N. NAGARESH, JUDGE

aks/23.06.2021

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APPENDIX OF WP(C) 11789/2021

PETITIONER'S EXHIBITS:

- Exhibit P1 A TRUE COPY OF THE WEDDING INVITATION DATED NOVEMBER 30TH, 2020.
- Exhibit P2 A TRUE COPY OF THE CERTIFICATE OF MARRIAGE DATED 30/11/2020 ISSUED BY THE SACRED HEART LATIN CHURCH, THRISSUR.
- Exhibit P3 A TRUE COPY OF THE NEWSPAPER COLUMN IN MANORAMA DAILY, THRISSUR EDITION DATED 09/12/2020.
- Exhibit P4 A TRUE COPY OF THE JUDGMENT DATED 30/06/2020 IN MATHEW T.K. V. SECRETARY AND REGISTRAR OF MARRIAGES, ALAPUZHA AND ANOTHER OF THIS HONOURABLE COURT REPORTED IN 2020(4) KHC 456.
- Exhibit P5 A TRUE COPY OF THE JUDGMENT DATED 21/12/2020 IN SREELAKSHMI J.S. V. KADUKUTTY GRAMA PANCHAYAT OF THIS HONOURABLE COURT BEING WPC NO. 27387/2020 (W) .