

**Bhumika Mohan Jaisinghani and Anr. Vs.registrar of Marriage and Ors.**

**Bhumika Mohan Jaisinghani and Anr. Vs.registrar of Marriage and Ors.**

**SooperKanoon Citation :** [sooperkanoon.com/1220592](http://sooperkanoon.com/1220592)

**Court :** Delhi

**Decided On :** Jan-14-2019

**Appellant :** Bhumika Mohan Jaisinghani and Anr.

**Respondent :** Registrar of Marriage and Ors.

**Judgement :**

§~4 \* + IN THE HIGH COURT OF DELHI AT NEW DELHI W.P.(C) 128/2019 & CM APPL.660/2019 BHUMIKA MOHAN JAISINGHANI AND ANR. ....

... Petitioner

s Through: Mr Jai Bansal, Advocate. Versus REGISTRAR OF MARRIAGE AND ORS. ....

... RESPONDENTS

Through: Mr Hetu Arora Sethi, ASC GNCTD with Mr Siddharth Agarwal, Advocate.  
CORAM: HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

1401.2019 % VIBHU BAKHRU, J The petitioners have filed the present petition, inter alia, 1. praying that respondents be directed to issue a handwritten or typed certificate of marriage in respect of their marriage.

2.

... Petitioner

no.1 is a Canadian Citizen and petitioner no.2 is a British Citizen. Both the petitioners are working with the British High Commission, New Delhi since 19.02.2017.

3. There is no controversy that the marriage of two foreign citizens can be registered under the Special Marriage Act, 1954 (hereafter the Act) and the petitioners were married in terms of the Act. However, the certificate of their marriage has not been issued as the software W.P. (C) 2808/2017 Page 1 of 5 used by the respondents does not accept the data regarding marriage of two foreign citizens.

4. The present controversy arises in the following context:

5. The petitioners are residents in New Delhi since 19.02.2017, and, on 31.10.2018, they had filed an application for registration of their marriage under the Act. However, their application was not accepted as the procedure now required the applicants to seek an online appointment for registration and a request for the same is not accepted without the applicants filling in the detail of their Aadhar Card. Since, the petitioners did not, at the material time, have an Aadhar Card, they sought a waiver of the requirement of seeking an online appointment. It they have not received any response to their request as yet. is stated that 6. In the meanwhile, the petitioner no.1 applied for Aadhar Card and after issuance of the Aadhar Card Number, she applied for online appointment for registration of her marriage with petitioner no.2. The petitioners were given an appointment on 26.11.2018.

7. On 26.11.2018, petitioners appeared before the Registrar of Marriages and their application was accepted after payment of fees of 500/-. Notice of their marriage was accepted and was also placed on the notice board of the Registrar of Marriages (respondent no.1). A copy of the said notice was also sent to the British High Commission for inviting any objection. Respondent no.1 fixed 28.12.2018 as the date for registration of the marriage.

8. On 28.12.2018, the petitioners appeared before respondent no.1 W.P. (C) 2808/2017 Page 2 of 5 and signed a declaration in the form as provided in the

Third Schedule of the Act. The petitioners further assert that they also made the declaration 9. as required under Section 12 of the Act. It is also not disputed that the Registrar of Marriages duly informed the petitioners that they were married. The petitioners also exchanged rings in his presence and in presence of the witnesses.

10. Subsequently, the petitioners were informed that the system is not accepting their citizenship details as indicates that at least one party has to be an Indian Citizen. Since, both the petitioners were not Indian citizens, the software did not accepted their details for generation of a certificate of marriage. The learned counsel appearing for respondents does not dispute 11. that the marriage between two foreigners cannot be registered under the Act. Thus, clearly, the software being used by the respondents for generation of the certificate and/or for maintaining the records of the marriages requires to be modified. Clearly, the issuance of the marriage certificate as per the Act cannot be withheld on account of the software being used by the respondents for the said purpose. Sections 12 and 13 of the Act are relevant and are set out 12. below:-

"solemnization.(1) The 12. Place and form of the marriage may be solemnized at Marriage Officer, or at such other place within a reasonable distance therefrom as the parties may desire, the office of W.P. (C) 2808/2017 Page 3 of 5 and upon such conditions and the payment of such additional fees as may be prescribed. (2) The marriage may be solemnized in any form which the parties may choose to adopt: Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Officer and the three witnesses and in any language understood by the parties, I, (A), take the (B), to be my lawful wife (or husband). 13. Certificate of marriage.(1) When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses. (2) On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of

witnesses have been complied with. 13. Admittedly, the marriage between the petitioners have been solemnized and further, the petitioners have also made the declaration as required in terms of the proviso to Sub-section (2) to Section 12 of the Act. In view of the above, the respondent is required to issue a 14. certificate in the form as set out in the Fourth Schedule of the Act.

15. In view of the above, the present petition is allowed and the W.P. (C) 2808/2017 Page 4 of 5 petitioners along with witnesses are required to appear before respondent no.1 on 29.01.2019 at 10:30 a.m. Respondent no.1 is directed to issue a Certificate of Marriage in the form as specified in the Fourth Schedule and also ensure that a copy of the same as well as other necessary details are preserved in the records maintained at his office. The respondents are further directed to take the necessary steps 16. for modification of the software being used for registration of marriages and issuance of certificates. The details of the marriage between the petitioners shall be entered into by respondent no.1 as and when the software is modified without the presence of the petitioners or the witnesses. The petition is disposed of in the aforesaid terms. The pending 17. application is also disposed of.

18. Order dasti under the signature of Court Master JANUARY14 2019 RK VIBHU BAKHRU, J W.P. (C) 2808/2017 Page 5 of 5

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**