

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 8TH DAY OF NOVEMBER 2023 / 17TH KARTHIKA, 1945

WP(C) NO. 37023 OF 2023

PETITIONERS:

- 1 FOUSIYA @ FOUZIYA
 AGED 32 YEARS
 W/O. SHAHAM.M.K., RAHMATH COTTAGE, POOVAM,
 PALLIVAYAL.P.O., PANNIYOOR AMSOM, KANNUR DT., , PIN
 - 670142
- 2 SHAHAN.M.K
 AGED 34 YEARS
 S/O. THAHIRA,, AL-ZAHAR, 4TH MILE, PONNIYAM
 WEST.P.O., PONNIYAMAMSOM, KANNUR DT., , PIN - 670141

 BY ADVS.
 V.T.MADHAVANUNNI
 V.A.SATHEESH

RESPONDENTS:

- 1 THE MARRIAGE OFFICER
 MARRIAGE OFFICE, OFFICE OF THE SUB REGISTRAR,
 KANNUR DT., , PIN - 670141
- 2 STATE OF KERALA
 REP. BY THE SECRETARY, DEPARTMENT OF REGISTRATION,
 THIRUVANANTHAPURAM,, PIN - 695001

SMT VIDYA KURIAKOSE-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08.11.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioners have approached this Court seeking that their application for marriage, be directed to be acceded to and thus their marriage registered, without waiting for the mandatory period.

2. Sri.Madhavanunni V.T - learned counsel for the petitioners, submitted that his clients are, in fact, married as early as in the year 2010 under the Muslim Personal Law; but that they now intend to marry under the Special Marriage Act. He submitted that, however, since the second among them is to travel abroad for the purpose of his avocation, they are constrained to approach this Court, seeking the reliefs sought for in this Writ Petition.

3. Smt.Vidya Kuriakose - learned Government Pleader, however, submitted that law is now well settled that the mandatory waiting period cannot be waived in individual cases; but that petitioners can be allowed to have their marriage solemnized through Online platforms, as has been allowed by this Court in **Arun R.K v. State of Kerala [2023 (2) KHC 391]**. She submitted that, in fact, every Marriage Officer has already been instructed as per the subsequent judgment of this Court in **Theresa Davis v. State of Kerala**

[WP(C) No. 29759/2023] to do so. She added that, therefore, the petitioners can also be allowed to have their marriage registered through online platform, if one of them is in India.

4. Sri.Madhavanunni V.T - learned counsel for the petitioner acceded to the afore suggestion.

In the afore circumstances, I allow this Writ Petition, without acceding to the plea of the petitioners made in this Writ Petition; however, directing the Competent Authority, namely the 1st respondent – Marriage Officer, to register their marriage under the Special Marriage Act, through online platform, recording that 1st among them will be personally present for such purpose.

**Sd/-DEVAN RAMACHANDRAN,
JUDGE**

lsn

APPENDIX OF WP(C) 37023/2023

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF ADHAR CARD NO.987726681913 OF THE 1ST PETITIONER
Exhibit P2	A TRUE COPY OF THE ADHAR CARD NO.625551392532 OF THE 2ND PETITIONER
Exhibit P3	A TRUE COPY OF THE BIRTH CERTIFICATE OF THE ELDER SON OF THE PETITIONERS, DATED 03.05.2012
Exhibit P4	A TRUE COPY OF THE BIRTH CERTIFICATE OF THE DAUGHTER OF THE PETITIONERS, DATED 22.8.2016
Exhibit P5	A TRUE COPY OF THIS APPLICATION FOR REGISTRATION OF MARRIAGE, DATED 04.11.2023
Exhibit P6	A TRUE COPY OF THE 1ST RESPONDENT HAD ISSUED A RECEIPT DATED 4.11.2023

RESPONDENTS EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

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