

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:28.10.2025

Pronounced on: 07 .11.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.1148 of 2025

- 1.K. ~~Krishna Kumar~~
- 2.A. ~~Anisha Subhakar~~

Petitioner(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 28.03.2024 passed in H.M.O.P. No.77 of 2024 on the file of the Sub Court at Ambattur.

For Petitioners : Mr.V.M.Venkataramana

ORDER

The revision petitioners are husband and wife. The revision petitioners decided to dissolve their marriage by mutual consent and presented a petition under Section 13(B) of the Hindu Marriage Act, 1955 (in short 'Act') before the learned Subordinate Judge, Ambattur. The said O.P. was numbered as HMOP. No.77 of 2024. However, when the O.P was taken up for final hearing, the Court, finding that the wife/2nd petitioner was a Muslim, therefore, posted the case for arguments on maintainability. Not satisfied with the arguments of the



learned counsel for the petitioners, the learned Sub Judge, relying on Section 2 of the Act, held that the Act would apply only to persons who

are Hindus by religion, or Buddhist, or Jain, or Sikh and domiciled in the territories to which this Act extends and such person not being Muslim, Christian, Parsi, Jew by religion, dismissed the petition as not maintainable.

2. I have heard Mr.V.M.Venkatramana, learned counsel for the revision petitioners.

3. The learned counsel for the revision petitioners would submit that though the second revision petitioner viz., the wife was a Muslim by birth, she has married the first petitioner in accordance with Hindu customs and rites, the marriage itself being solemnized at Arulmighu Balamurugan Temple, Mogappair West, Chennai. He would therefore state that the learned Sub Judge, Ambattur failed to advert his attention to the fact that when the second petitioner never claims to be a Muslim, but only a Hindu at the time of their marriage and the marriage also having been solemnized in a manner acceptable and permissible under the provisions of the Hindu Marriage Act, there was nothing improper for the petitioners to approach the Court invoking Section 13(B) of the Act or



muchless, any of the other provisions of the Hindu Marriage Act.

WEB COPY 4. It is also the specific case of the learned counsel for the petitioners that though the father and mother of the second petitioner were Muslims by religion, the second petitioner's Maternal grandmother was only a Hindu by religion and the second petitioner herself was brought up only as per Hindu customs and traditions and therefore, by express conduct of the second petitioner, the second petitioner has converted herself to Hinduism, though there is no formal records of such conversion. He would however state that the very fact that the second petitioner has undergone the marriage ceremonies in accordance with Hindu rites and customs would be sufficient to accept the plea of the second petitioner that she has professed Hinduism at the time of her marriage. The learned counsel for the petitioners also places reliance on the marriage photographs as well as letter issued by the Secretary, A/M. Sri Balamurugan Thirukoil Trust, Mogappair West, Chennai which confirms the solemnization of the wedding of the petitioners in the said Temple.

5. The learned counsel for the petitioners also invites my attention to the decision of the Hon'ble Supreme Court in *Perumal Nadar (Dead)*



by *L.R.S Vs. Ponnuswami*, reported in, *AIR 1971 2352*, where the

Hon'ble Supreme Court held as follows, *"a person may be Hindu by*

birth or conversion. A mere theoretical allegiance to the Hindu faith by a

person born in another faith does not convert him into a Hindu, nor is a

bare declaration that he is a Hindu sufficient to convert him to

Hinduism. But a bonafide intention to be converted to the Hindu faith,

accompanied by conduct unequivocally expressing that intention would

be sufficient evidence of conversion" and the Hon'ble Supreme Court

held that *"no formal ceremony of purification or expiration is necessary*

to effectuate conversion".

6. Relying on the said decision, the learned counsel for the petitioners states that when the second petitioner has shown by conduct that she has converted to Hindu religion and has also specifically averred in the mutual consent divorce petition that she is a Hindu by religion, then as held by the Hon'ble Supreme Court, it would be sufficient to establish conversion of the second petitioner from Muslim religion to Hindu religion. I find force in the submissions of the learned counsel for the petitioners.

7. Firstly, the petitioners' marriage was solemnized at A/m.Sri



Balamurugan Thirukkoil, Mogappair West, Chennai. Photographs in support of the wedding clearly evidence that the marriage was

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solemnized only as per Hindu rites and customs. The letter issued by the Secretary of A/m. Sri Balamurugan Temple, Mogappair West, Chennai confirms that the marriage between the petitioners was solemnized in their Temple on 21.08.2020. Further in the petition filed for divorce by mutual consent as well, there is a categorical assertion by the petitioners that the marriage was solemnized at Balamurugan Temple, Mogappair West, Chennai. The petitioners have invoked the provisions under the Hindu Marriage Act, conscious of the fact that they are only professing Hindu religion. There was absolutely no necessity for the Court to conduct any roving enquiry in such circumstances, merely because the second petitioner's name continues to be her original Muslim name.

8. As held by the Hon'ble Supreme Court, there is no necessity for a person professing a particular religion to claim conversion to another religion by any formal ceremony or even declaration. Mere conduct would suffice to establish conversion. In the present case, the second petitioner, by express conduct, in participating in the marriage solemnization in accordance with Hindu rights and customs and also approaching the Family Court invoking the provisions of the Hindu



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Marriage Act, 1955 has sufficiently shown that the second petitioner has converted herself to Hindu faith. The petitioners have decided to amicably part ways and they have presented the O.P for grant of decree for dissolution of marriage by mutual consent. The O.P has also been numbered and taken on file as H.M.O.P. No.77 of 2024. There was no objection by the Registry or by the Court when the Application was filed invoking Section 13(B) of the Act. In fact, the petitioners having solemnized their marriage in a Hindu Temple and in accordance with Hindu rites and customs, will also not be in a position to seek divorce under the Special Marriage Act as well. The only remedy for the petitioners is to seek dissolution of the marriage invoking the provisions of the Hindu Marriage Act, 1955.

9. As already held the second petitioner, though by birth is a Muslim, by conduct, has clearly demonstrated that she has converted to Hindu faith and mere absence of any ceremony cannot be a ground to dismiss the application for divorce by mutual consent.

10. In the light of the above, I am inclined to set aside the order passed by learned Sub Judge, Ambattur and the matter is remitted to the Sub Court, Ambattur to decide the O.P. on merits and in accordance with



CRP.No.1148 of 2025



law and pass final orders within a period of four (4) weeks from the date of receipt of the copy of the order.

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11. In fine, this Civil Revision Petition is allowed. No costs.

07.11.2025

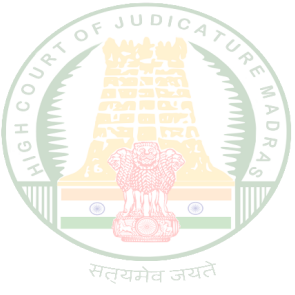
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Index : Yes / No

Internet : Yes / No

To:

The Subordinate Judge, Ambattur.



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CRP.No.1148 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. No.1148 of 2025

07.11.2025