

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.106

CWP-5135-2020 (O&M)
Date of decision : 15.6.2020

Deepak Kumar and another Petitioners

VERSUS

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. M.K. Dhot, Advocate, for the petitioners.

Mr. R.S. Dhull, AAG, Haryana.

SUDHIR MITTAL, J. (Oral)

This writ petition has been filed with a prayer for directions to respondents No.3 and 4 to register their marriage.

The petitioners got married on 20.11.2015. The marriage was arranged by their respective families. Meanwhile, two children have been born out of the wedlock. On 18.11.2019, an application for registration of their marriage was filed, but their marriage has still not been registered till date.

Learned counsel for the petitioners submits that petitioner No.1, namely, Deepak Kumar, was less than 21 years of age on the date of the marriage and thus, there was a violation of Section 5 of the Hindu Marriage Act, 1955. However, in view of Sections 11 and 12 of the said Act, the marriage was only voidable. Neither of the parties has sought to avoid their marriage and thus, there is no legal bar in registration of the same. The case is, in fact, covered by Baljit Kaur Boprai Vs. State of Punjab and another, 2008 (3) RCR (Civil) 109 as well as Jyoti and another Vs. State of Haryana and others, 2019 (4) RCR (Civil) 577.

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Learned State counsel is not in a position to controvert the submissions made by learned counsel for the petitioners.

The matter has been adjourned from time to time to enable the learned State counsel to get appropriate instructions. Today also, he has sought time, but I do not find any valid reason to accept the request.

A perusal of the Hindu Marriage Act, 1955, shows that in case, a marriage has been solemnized in violation of the age restriction laid down therein, the marriage is only voidable. However, neither of the parties have sought annulment of the marriage. In fact, the parties are seeking to register their marriage. In law, the marriage is legal and there is no bar to its registration. This case is squarely covered by Baljit Kaur Boparai's and Jyoti's cases (supra).

The writ petition is accordingly, allowed and respondents No.2 to 4 are directed to ensure that the marriage be registered within two weeks from the date of receipt of certified copy of this order.

(SUDHIR MITTAL)
JUDGE

15.6.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No