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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11685/2024 & CM APPL. 64410/2024**

**FAIZAN AYUBI & ANR.**

.....Petitioners

Through: Mr. M. Sufian Siddiqui, Mr. Rakesh Bhugra and Mr. Niyazuddin, Advocates.

versus

**THE GOVT OF NCT OF DELHI & ANR.**

.....Respondents

Through: Mr. Udit Malik, ASC with Mr. Vishal Chanda, Advocate for GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**06.11.2024**

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1. On 23<sup>rd</sup> August, 2024, the Court passed the following order:

*“4. Petitioners solemnised their marriage on 11<sup>th</sup> October, 2023, in accordance with Islamic Sharia Law. Since the couple intended to travel abroad, they sought to register their marriage as per legal requirements as it is a pre-condition for grant of visas to certain countries. In such circumstances, in absence of an effective online mechanism for registration of such a marriage solemnised under Muslim Personal Laws under the Delhi (Compulsory Registration of Marriage) Order, 2014, Petitioners were constrained to register their marriage under the Special Marriage Act, 1954<sup>1</sup>.*

*5. Subsequently, on account of irreconcilable differences and an irretrievable breakdown of their marriage, the Petitioners executed a Mubarat Nama on 09<sup>th</sup> July, 2024, which is a form of divorce by mutual consent recognised under Islamic law. At that stage, the Petitioners realised that on account of the official registration of their marriage under the SMA, dissolution of their marriage would entail certain legal consequences. As such, they approached the Family Court, Saket seeking*

<sup>1</sup> “SMA”



*dissolution of marriage under Section 28 of SMA. However, considering the legal complication that has arisen on account of their marriage registration under the SMA, the said petition had to be withdrawn. Accordingly, they have approached this Court under Article 226 of the Constitution of India, 1950, seeking quashing of the Marriage Registration Certificate dated 15<sup>th</sup> May, 2024, effectuated by Respondent No. 2 i.e., SDM Defence Colony/Marriage Officer, under the SMA.*

6. *That apart, the Petitioners also highlight a judgment of this Court delivered on 04<sup>th</sup> July, 2024<sup>2</sup> directing the Marriage Branch of the Revenue Department, GNCTD to implement the process for facilitating the registration of marriages solemnised under Muslim Personal Laws under the Delhi (Compulsory Registration of Marriage) Order, 2014 on the Delhi Government marriage registration online portal. It has been pointed out by the Petitioners that the directions in the said judgment have not been implemented till date.*

7. *Issue notice. Mr. Udit Malik, ASC, accepts notice on behalf of Respondents.*

8. *Let status report be filed within four weeks from today. Rejoinder thereto, if any, be filed on or before the next date of hearing.*

9. *Re-notify on 01<sup>st</sup> October, 2024.*

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*W.P.(C) 9348/2023 titled Sh. Rehan Elahi & Anr. v. Govt of NCT of Delhi & Anr."*

2. GNCTD has not filed any status report as directed in the aforesaid order.

3. Nonetheless, the Court has heard counsel for Petitioners.

4. Petitioners' marriage was in accordance with Islamic Sharia Law. They have since executed a *Mubarat Nama* on 09<sup>th</sup> July, 2024, which is form of divorce by mutual consent recognised under the Islamic law. The present petition is accompanied by affidavits of both Petitioners, and the signatures are identified by counsel for Petitioners. It is pointed out by counsel for Petitioners that in light of the foregoing, the Special Marriage Act, 1954,<sup>1</sup> would not apply and the Petitioners under mistake registered their marriage under SMA, in absence of an effective online mechanism for registration of marriages solemnized under the Muslim Personal Laws as

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<sup>1</sup> "SMA"



mandated by the Delhi (Compulsory Registration of Marriage) Order, 2014.

5. Having regard to the foregoing, following directions are passed:
  - (a) The registration certificate dated 15<sup>th</sup> May, 2021 (Annexure P-1) issued by the Revenue Department, GNCTD, is hereby annulled. Accordingly, Respondent No. 2 shall make appropriate change in their records.
  - (b) As regards the implementation of the judgment of this Court dated 04<sup>th</sup> July, 2024 is concerned, since Respondents have not indicated any concrete steps in implementing the said judgment, it is directed that the Chief Secretary, GNCTD, shall personally look into this issue to ensure compliance of the said judgment in a time bound manner.
6. With the above directions, the present petition is disposed of.
7. Copy of this order be sent to Chief Secretary, GNCTD.

**SANJEEV NARULA, J**

**NOVEMBER 6, 2024**

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