

WP (C) NO. 27738 OF 2009

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 12<sup>TH</sup> DAY OF OCTOBER 2022 / 20TH ASWINA,

1944

WP (C) NO. 27738 OF 2009

**PETITIONERS:**

1 LALAN.P.R,  
S/O.REGHUVARAN.P.K,  
AGED 35 YEARS, PUTHANPURACKAL HOUSE,  
UDAYAMPEROOR P.O, ERNAKULAM, PIN-682 307.

2 AYSHA,  
W/O.LALAN.P.R,  
AGED 32 YEARS,  
LIG-272, GANDHINAGAR,  
KOCHI-20,  
NOW AT PUTHANPURACKAL HOUSE,  
UDAYAMPEROOR P.O, ERNAKULAM, PIN-682 307.

BY ADVS.  
SRI.C.A.CHACKO  
SMT.C.M.CHARISMA  
SRI.N.A.SHAFEEK  
SRI.K.S.SALEESH

**RESPONDENTS:**

1 CHIEF REGISTRAR GENERAL OF MARRIAGES  
(COMMON), (DIRECTOR OF PANCHAYATHS),  
OFFICE OF PANCHAYATH DIRECTORATE,,  
THIRUVANANTHAPURAM.

WP (C) NO. 27738 OF 2009

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2 LOCAL REGISTRAR OF MARRIAGES (COMMON)  
(SECRETARY, CORPORATION OF COCHIN),  
OFFICE OF COCHIN CORPORATION,  
ERNAKULAM.

SRI.K.M.FAISAL, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 26.09.2022, THE COURT ON 12.10.2022 DELIVERED  
THE FOLLOWING:

**CR**

**P.V.KUNHIKRISHNAN, J**

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**W.P.(c)No.27738 OF 2009**  
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**Dated this the 12<sup>th</sup> day of October, 2022**

**JUDGMENT**

Lalan P.R married Aysha. They are the petitioners in this writ petition. The 1<sup>st</sup> petitioner Lalan is a Hindu by birth. The mother of the 2<sup>nd</sup> petitioner Ayisha is a Muslim. According to the petitioners, they are followers of the Hindu religion. The petitioners married following Hindu religious rites and customs. The 2<sup>nd</sup> respondent the local Registrar (common) refused to register the marriage solemnized between the petitioners, as per the Kerala Registration of Marriages (Common) Rules, 2008 (hereinafter mentioned as "Rules 2008") with a reasoning that the registration of marriage is possible only if it is

solemnized as per the marriage laws in force. It was also stated that since the petitioners' marriage was not conducted as per any personal laws of the parties or based on any statutory provisions, petitioners can register their marriage only as per the Special Marriage Act 1954. The grievance of the petitioners is that the 2<sup>nd</sup> respondent rejected the request for registering their marriage as per the Rules 2008 because the 1<sup>st</sup> petitioner is a Hindu and the mother of the 2<sup>nd</sup> petitioner is a Muslim. The second respondent also stated that, there is no evidence to show that the marriage was solemnized in accordance to any religious rites and customs. I am surprised to see such a stand from the respondents. Even now, the authorities are reluctant to register marriages because of religious differences between the parties to a marriage. Then what is the purpose of saying that we are the followers of legends like Sree Narayana Guru and Ayyankali? Hypertechnical reasons for not registering marriages as per the Rules 2008 are to be deprecated. Therefore, a

detailed consideration with respect the intention for framing the Rules 2008 is necessary to resolve the issue in this case.

2. The short facts, of the case, are as follows: According to the petitioners, their marriage was solemnized on 02.12.2001 at Lions Club Hall Kadavanthra, as per religious rites and customs, in the presence of friends and relatives of both the parties. Ext.P1 is the wedding invitation card. The petitioners are now living with their two children. The first petitioner is a Hindu by birth, and he belongs to the Dheevera community. The second petitioner's father hails from Dheevera community and her mother is from the Muslim community. The 2<sup>nd</sup> petitioner professes Hindu religion and follows the culture of Hindu community. Hence, it is stated in the writ petition that, the marriage was solemnized as per Hindu religious customs and rituals as agreed by both the families. Consequently, the petitioners decided to register their marriage under the Rules 2008 and submitted an

application before the 2<sup>nd</sup> respondent in Form No.1 on 02.12.2008 after remitting the prescribed fee. Ext.P2 is the application form. It is also submitted that they also furnished Form No.III with details of 2 witnesses to prove the solemnization of marriage as mandated under Rule 9(3) of the Rules 2008. Since, the 2<sup>nd</sup> petitioner's religion is shown in her SSLC Book as Muslim, the 2<sup>nd</sup> respondent declined to register their marriage and sought clarification from the 1<sup>st</sup> respondent, the Chief Registrar General of Marriages(common). The 1<sup>st</sup> respondent, as per Ext. P4 informed that only marriages solemnized under any of the existing marriage laws could be registered under the Rules, 2008 and the petitioner's marriage was not solemnized and could be registered only under the Special Marriage Act 1954. Hence, this writ petition is filed challenging Ext.P4 order of the 1<sup>st</sup> respondent and to issue appropriate directions to the 2<sup>nd</sup> respondent to register the marriage of the petitioners under the Rules, 2008.

3. Heard counsel for the petitioners and the Government pleader. The counsel for the petitioners reiterated his contentions in the writ petition. The government pleader submitted that, for registering marriages, marriages should be either solemnized before a marriage officer appointed under any statutory provisions or solemnized as per religious rites. The Government pleader relied on the judgment of this Court in **Sabu K.Eliyas V. State of Kerala and others**(2014(1) KLT 804)

4. The Rules 2008 was framed by the Government of Kerala based on the directions of the Apex Court in **Seema v. Ashwani Kumar** (2006 (1) KLT 791). The registration of marriages as per the Rules 2008 is mainly intended for the purpose of protecting the rights of women and children. The reason why the Apex Court directed the State Governments to frame the Rules is clearly mentioned in Seema's Case (supra). It will be beneficial to extract the relevant portions of Seema's case(supra)

below.

*15. As is evident from narration of facts, though most of the States have framed rules regarding registration of marriages, registration of marriage is not compulsory in several States. If the record of marriage is kept, to a large extent, the dispute concerning solemnisation of marriages between two persons is avoided. As rightly contended by the National Commission, in most cases non registration of marriages affects the women to a great measure. If the marriage is registered it also provides evidence of the marriage having taken place and would provide a rebuttable presumption of the marriage having taken place. Though, the registration itself cannot be a proof of valid marriage per se, and would not be the determinative factor regarding validity of a marriage, yet it has a great evidentiary value in the matters of custody of children, right of*



*children born from the wedlock of the two persons whose marriage is registered and the age of parties to the marriage. That being so, it would be in the interest of the society if marriages are made compulsorily registrable. The legislative intent in enacting S.8 of the Hindu Act is apparent from the use of the expression "for the purpose of facilitating the proof of Hindu marriages".*

5. Based on the above directions, the Government of Kerala framed the Rules 2008. As per Rule 6 of the Rules 2008, all marriages solemnized in the state after the commencement of these Rules shall compulsorily be registered irrespective of religion of the parties. It will be better to extract Rule 6 of the Rules 2008 along with its proviso.

**“Rule 6. Marriages Compulsorily Registrable.-** *All marriages solemnized in the State after the commencement of these Rules shall*

*compulsorily be registered irrespective of religion of the parties:*

*Provided that the marriages, the registration of which is compulsorily under any other statutory provisions, need not be registered under these Rules and such marriages shall be registered under the respective statutory provisions:*

*Provided further that marriages, the registration of which is optional as per any other statutory provisions shall be registered under these Rules unless registered under such statutory provisions:*

*Provided also that the registration of marriages solemnized prior to the date of commencement of these Rules shall be optional.*

*Provided also that any relation made by any agreement or by any other mode in the name of marriage, other than the marriages solemnized as per any law in force in India or as per religious rites, shall not be registered under these Rules. “*

6. The first proviso to Rules 6 states that the registration of marriages which is compulsory under any other statutory provisions, need not be registered in these

Rules and such marriages shall be registered under the respective statutory provisions. The 2<sup>nd</sup> proviso states that the registration of the marriages, which is optional as per any other statutory provisions shall be registered under these Rules unless registered under such statutory provisions. The 3<sup>rd</sup> proviso states that registration of marriage solemnized prior to the date of commencement of these Rules shall be optional. The 4<sup>th</sup> proviso states that any relation made by any agreement or by any other mode in the name of marriage, other than the marriages solemnized as per any law in force in India or as per religious rites shall not be registered under these rules. Therefore, a reading of Rule 6 will show that all marriages solemnized in the state after the commencement of the Rules 2008 is to be registered compulsorily irrespective of the religion of the parties. Therefore, for registration of the marriage under Rule 6, "solemnization of the marriage" is necessary. But in Rule 6, it is clearly stated that the registration is irrespective of the religion of the

parties. Now the question to be answered is what is meant by "solemnization of marriage"? This proposition is not at all res integra in the light of the Apex Court judgment in **Bhaurao Shankar Lokhande and Another v. State of Maharashtra and Another** (AIR 1965 SC 1564). Para 5 of the above judgment is relevant and the same is extracted hereunder.

*5. The word 'solemnize' means, in connection with a marriage, to celebrate the marriage with proper ceremonies and in due form, according to the Shorter Oxford Dictionary. It follows, therefore, that unless the marriage is 'celebrated or performed with proper ceremonies and due form it cannot be said to be 'solemnized'. It is, therefore, essential, for the purpose of S.17 of the Act, that the marriage to which S.494, I.P.C.applies on account of the provisions of the Act, should have been celebrated with proper ceremonies and in due form. Merely going through certain ceremonies with the intention that the parties be taken to be married, will not make the ceremonies prescribed by law or approved by any established custom."*

Thus the word “solemnize” in connection with the marriage means to celebrate the marriage with proper ceremonies and in due form. In **Rajeeve v. Sarasamma and Others** (2021 (4) KHC 87), a Division Bench of this Court observed that a Hindu marriage has both religious as well as secular aspects. This Court further observed that the Hindu marriage is to be treated both as a sacrament and as a contract. It will be beneficial to extract relevant portions of the Rajeeve's Case(supra).

*15. The parties are Hindus. Marriage, according to the pristine Hindu Law is sanskar-a sacrament; one of the sixteen important sacraments essential to be taken during one's lifetime. The traditional concept of marriage is now grossly changed and Hindu marriage today has assumed more or less the nature of contract for the mutual benefit of the parties concerned, duly aided by different legal provisions and reformers. The Hindu Marriage Act, 1955 reformed radically the Hindu law of marriage. The Act overrode all the rules of law of marriage whether by virtue of any text or rule of Hindu law*

*or any custom or usage having the force of law in respect of all the matters dealt with in it. The Act does not use the expression 'sacramental marriage' but speaks of a Hindu marriage solemnized in accordance with customary rites and ceremonies of either party. S.7 makes it clear that a Hindu marriage has both religious as well as secular aspects. Therefore, it is to be treated both as a sacrament and as a contract. It is a sacrament because there is emphasis on the performance of the customary rites and ceremonies including Saptapadi wherever it is treated as an essential ceremony for the completion of the marriage. It is contract because this section deals with the capacity of the spouses to enter into an alliance for a marriage.*

*16. To prove a valid marriage under the Hindu law, the evidence regarding the performance of marriage as required under S.7 of the Hindu Marriage Act must be brought on record. S.7 speaks of solemnization of marriage with customary rites and ceremonies. The word 'solemnized' means, to celebrate the marriage with proper ceremonies with the intention that the parties should be considered to be married. The Apex Court in Gopal Lal v. State of Rajasthan (1979 KHC 526 : AIR 1979 SC 713 : (1979) 2 SCC*

*170 : 1979 SCC (Cri) 401 : 1979 CriLJ 652 : 1979 MLJ (Cri) 480 : 1979 (16) ACC 115) while defining the word 'solemnize' in connection with a marriage under the Hindu Marriage Act, held inter alia, that word 'solemnize' means in connection with a marriage, 'to celebrate the marriage with proper ceremonies and in due form'. In Bhaurao v. State of Maharashtra (1965 KHC 696 : AIR 1965 SC 1564 : 1965 (2) SCR 837 : 1965 (2) CriLJ 544), it was held that unless the marriage is 'celebrated or performed with due ceremonies and due form' it cannot be said to be "solemnized". It follows, therefore, that unless the marriage is celebrated or performed with proper ceremonies and due form, it cannot be said to be 'solemnized'. Where the factum of marriage is disputed, essential ceremonies constituting the marriage must be pleaded and proved to show that the marriage was valid.*

*18. As per S.50 of the Indian Evidence Act, when the Court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct as to the existence of such relationship of any person who has special means of knowledge on the subject of that relationship is a relevant fact. The person whose opinion expressed by conduct is relevant must be a person*

*who, as a member of the family or otherwise, has special means of knowledge on the particular subject of relationship. What the Section says is that such conduct or outward behavior as evidence of the opinion held is relevant and may, therefore, be proved. The two illustrations appended to the Section clearly bring out the true scope and effect of the Section. The evidence of PWs 2 to 4 would clearly show that they had special means of knowing the disputed relationship between the first respondent and late Reghunathan. They have attended the marriage ceremony and they have witnessed the first respondent and late Reghunathan cohabating together as husband and wife. Undoubtedly, they showed their opinion as expressed by their conduct and thus admissible under S.50. The Supreme Court in Reema Aggarwal v. Anupam (2004 KHC 668: 2004 (2) KLT 822: (2004) 3 SCC 199: AIR 2004 1418: 2004 CriLJ 892) has held that when the factum of celebration of marriage is established, it will be presumed that absence to the contrary that all the rite and ceremonies to constitute a valid marriage have been gone through."*

7. From the above decisions, it is clear that the



“solemnization of marriage” means to celebrate the marriage with proper ceremonies with the intention that the parties should be considered to be married. In **Rajeeve's case**(supra), this Court considered Section 50 of the Indian Evidence Act 1872 also. In the light of the above discussions, it is clear that the marriages which are solemnized alone can be registered as per the Rules, 2008. The solemnization of marriage means celebrating the marriage with proper ceremonies.

8. When a circular was issued by the Government to the effect that marriages solemnized between persons belonging to two different religions can not be registered under the Rules 2008, this Court in **Deepu Dev and another v. State of Kerala and another** 2012 (2) KHC 497, observed that the circular to that effect is repugnant and contrary to the provisions contained in the Rules, 2008. Relevant portions of the judgment in Deepu Dev's Case (supra) is extracted herein.

*“9. Learned counsel for the petitioner had*

*drawn my attention to Section (4) of the Christian Marriage Act, 1872, and contended that the marriage between the petitioners, which is solemnized through religious rites prescribed under Christianity, is valid. But I am of the view that for the purpose of deciding the issue involved, I need not adjudicate the validity of the marriage. I take note of the fact that it is in view of the directives of the Honourable Supreme Court that the State Government has framed the Common Rules, making all the marriages compulsorily registrable, irrespective of the religion of the parties, (emphasis supplied). That being so, the State Government by virtue of Ext.P7 circular which is an executive order, cannot impose any restriction on the scope and applicability of the Rules. Even the proviso to R.6 of the Common Rules only provides that a marriage which is compulsorily registrable under any other law need not be registered again under the Common Rules. It only provides an exemption from the obligation provided under R.6 for mandatory registration of all marriages solemnized in the State. But it cannot be interpreted in any manner preventing registration of a marriage solemnized within the State, even if it is liable to be registered under any other law, especially in view of wordings of R.6*

*that all marriages irrespective of religion, of the parties should be registered, if it is solemnized within the State.*

*10. Therefore, I am of the view that the instructions issued through Ext.P7, that the marriages solemnized between persons belonging to different religions are not registrable under the Common Rules is repugnant and contrary to the provisions contained in the Common Rules. The State Government has no power to issue any such executive order contrary to the provisions of a legislation. Hence, Ext. P7 is liable to be quashed."*

9. In **Sabus's case** (supra), which was the decision relied by Government Pleader, it is only stated that, for the purpose of registration under the Rules, 2008, the marriages should either be solemnized before a marriage officer or as per religious rites. Therefore, from the above discussions, it is clear that marriages which is solemnized in the State of Kerala after the commencement of the Rules, 2008 shall be compulsorily registered irrespective of the religion of the parties. Rule 7 deals with the jurisdiction. As per this Rule, marriages shall be

registered within the local area of the local registrar of Marriages(common), of whose jurisdiction the marriage is solemnized. The local registrar of Marriages (Common) will be the registrar of births and deaths appointed under the Registration of Birth and Deaths Act, 1969. The Rule 8 of the Rules 2008 deals with the maintenance of the register of marriages(Common). As per Rule 8 Local Registrar shall maintain a Register of Marriages (Common) in Form-III appended to the Rules. Rule 9 deals with procedure and time limit of registration. It will be better to extract Rule 9 of the Rules 2008.

***“9. Procedure and time limit for registration.- (1) The parties to a marriage shall prepare a memorandum in duplicate in Form No. I appended to these Rules along with three separate sets of photos and shall submit the same to the Local Registrar within a period of forty-five days from the date of solemnization of their marriage.***

*(2) The memorandum for registration of marriages solemnized before the commencement of these Rules may be submitted on or before 31<sup>st</sup> December 2013.*

*(3) The memorandum shall be signed by both the parties to the marriage and two other persons who witnessed the marriage. In the case of a marriage solemnized before a*

*Marriage Officer appointed under any statutory provisions, the entries made in the Register of Marriages or any other register maintained for this purpose and certified by the Marriage Officer and in the case of a marriage solemnized as per religious rites, a copy of the certificate of marriage issued by the religious authority concerned or a declaration from a Gazetted Officer / Member of Parliament / Member of Legislative Assembly / Member of Local Self Government Institution in Form No. II appended to these rules may be a document in proof of the marriage. A registration fee of rupees one hundred shall be payable along with the submission of the memorandum for registration.*

*Provided that in the case of persons below the poverty line and those who belong to the Scheduled Castes/Scheduled Tribes, the fee for Registration of Marriages shall be rupees ten:*

*Provided further that in the event of the death of either the husband or the wife and if a memorandum, with the signature of two witnesses to the marriage together with sufficient documents to prove that the marriage had been solemnized, is filed by the person alive before the Local Registrar, he shall register the marriage.*

*(4) Marriages solemnized after the commencement of these Rules, in respect of which no memorandum is filed within the period of forty-five days and a period of one year has not expired from the date of such solemnization, may be registered subject to sub-rule (3) by the Local Registrar after imposing a fine of rupees one hundred. In such cases the memorandum shall be filed together with*

*a declaration from a Gazetted Officer/Member of Parliament/Member of Legislative Assembly/Member of a Local Self Government Institutions in Form No. II appended to these Rules or with any other document to prove the solemnization of the marriage to the satisfaction of the Local Registrar.*

10. As per Rule 9(1) the parties to a marriage shall prepare a memorandum in duplicate in Form No. I, along with three sets of photos and shall submit the same to the Local Registrar within a period of forty-five days from the date of solemnization of their marriage. It is stated in Rule 9(2) that the memorandum for registration of marriages solemnized before the commencement of these Rules may be submitted on or before 31<sup>st</sup> December 2013. Rule 9(3) deals with the submission of Form -1. It only says that the memorandum shall be signed by both the parties to the marriage and two other persons, who witnessed the marriage. In the case of the two eventualities mentioned in Rule 9(3), the following documents may be proof of the marriage.

(i) In the case of a marriage solemnized before a Marriage Officer appointed under any statutory provisions, the entries made in the Register of Marriages or any other register maintained for this purpose and certified by the Marriage Officer and

(ii) In the case of a marriage solemnized as per religious rites, a copy of the certificate of marriage issued by the religious authority concerned or a declaration from a Gazetted Officer / Member of Parliament / Member of Legislative Assembly / Member of Local Self Government Institution in Form No. II appended to these rules.

11. It is also stated in Rule 9(3) that a registration fee is also payable along with the submission of the memorandum for registration. Therefore, Rule 9(3) deals with the submission of Form No I. Form No.I only states about the signature of the parties to the marriage and two other persons who witnessed the marriage. It will be

better to extract Form No.I.

FORM NO. I

[See Rule 9(1)]

**MEMORANDUM FOR REGISTRATION OF MARRIAGE**

1. Date of Marriage :

2. Place of Marriage : Local area                      Village                      Taluk    District  
(specify hall, mandapam etc.)  
.....

Photo of the    Photo of the  
Husband to    Wife to be  
be affixed    affixed

3. Details of Parties to the Marriage (As on the date of marriage)

Details	Husband	Wife
(a) Name in full (in capital letters)		
(b) Nationality		
(c) Age and date of birth [sufficient proof such as S.S.L.C Book, Driving Licence, Passport, School Admission Register or other records issued by the Government showing date of birth shall be produced]		
(ca) Occupation]		
(d) Permanent Address		



(e) Present Address

\*(f) Previous marital status

Married  
Unmarried  
Widower  
Widow  
Divorced

(g) Whether any spouse is living  
(If yes, number of spouse living)

(h) Signature with date

(i) Name of father or guardian and the relationship

(j) Age

(k) Address

(l) Signature with date (If he is a consenting party)

(m) Name of mother

(n) Age

(o) Address

(p) Signature with date (If she is a consenting party)

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4. Witness of solemnization of marriage

1. (a) Name:

(b) Address:

(c) Signature with date:

2. (a) Name:

(b) Address:

(c) Signature with date:

5. Details of records of marriage required under rule 9/rule 10, if any:

**Declaration of the Parties**

We.....do hereby declare that the details shown above are true to the best of our knowledge and belief.

Signature of the Parties:

Place:

1. Husband

Date:

2. Wife

(For Office Use)

Received by Post/in Person on.....

Local Registrar.

Registered in the Register of Marriages (Common) on .....

.....as Regn. No.....

Local Registrar.

12. A perusal of Form No.I will show the details necessary in it. They are the date of marriage, place of

marriage, details of parties to the marriage (as on date of marriage), two witnesses of solemnization of marriage and details of records of marriage required under Rule 9/Rule 10 if any. A perusal of Form No.I would show that there is no column in it which requires about the religion of the parties. If the marriage is solemnized, it can be registered as per the Rules, 2008. In the two eventualities mentioned in Rule 9(3), the documents mentioned in those situations alone are necessary. In case of marriage solemnized before the Marriage Officer, a certificate from the Marriage Officer is necessary. In case of a marriage solemnized as per religious rites, a copy of the certificate of marriage issued by the religious authority concerned or a declaration from a gazetted officer/Member of Parliament/Member of Legislative Assembly/Member of Local Self Government Institutions in Form.II appended to the rules is a document in proof of the marriage. Therefore, in a marriage which is solemnized as per religious rites, a copy of the certificate issued by any of

the above authorities mentioned above is sufficient along with Form No-I. Form No.II deals about the declaration of MP/MLA/Gazetted Officer or Member of LSGI.

13. A reading of the Apex Court Judgment in **Seema's case** (supra) which lead to the framing of the Rules, 2008, makes it clear that the registration of the marriage as per the Rules itself cannot be a proof of valid marriage and would not be the determinative factor regarding the validity of a marriage. But the Apex Court observed that it has a great evidentiary value in the matters of custody of children, rights of children born from the wedlock of two persons, whose marriage is registered and the age of parties to the marriage. Therefore, simply because the marriage is registered as per the Rules, 2008, it is not a proof of a valid marriage, and it is only for the purpose of protecting the interest of the children born out of that marriage and to prove the age of the parties to the marriage. Therefore, simply

because the father or mother of one of the parties to a marriage belongs to a different religion, it is not a reason to reject an application submitted for registration of the marriage as per the Rules, 2008.

14. In this case, the registration of marriage is refused by the respondents mainly for the reason that the mother of the 2<sup>nd</sup> petitioner is from the Muslim community which is different from that of the 1<sup>st</sup> petitioner. It is clearly stated in the writ petition that the petitioner's marriage was solemnized as per Hindu religious rites and customs in the presence of friends and relatives of both the parties. It is also stated that the 2<sup>nd</sup> petitioner is professes Hindu religion and follows the culture of Hindu community. Hence the marriage was solemnized as per Hindu religious custom and rituals as agreed by both the families. In such a situation, I fail to understand why the respondents refused to register the marriage as per the Rules, 2008. There is no rule which prohibits the

registration of the marriage between Lalan P.R. and Aysha, simply because the mother of Ayisha belongs to Muslim community. The only condition for the registration of the marriage as per Rule 6 of the Rules, 2008 is that the marriage is to be solemnized. Religion of the parties is not a consideration for registering marriages. If there is a declaration from gazetted officer/member of parliament/member of legislative assembly/ member of local self government institution in Form No.II, the registration cannot be rejected simply because the mother of one of the party is a Muslim and the other party is Hindu. Respondents are unnecessarily creating confusion while registering the marriages, which are solemnized, according to parties. The counsel for the petitioners submitted that the petitioners are ready to produce a declaration from the authorities mentioned in Rule 9(3) to prove the solemnization of the marriage. If that is the case, nothing prevents the respondents from registering the marriage.

15. The respondents, while registering the marriage as per the Rules 2008, should remember that our Country is a secular Country giving liberty to all citizens to adopt their own religion and to follow their own rites, customs, and ceremonies. Kerala is a State, where the Great reformers like "Sree Narayana Guru and Ayyankali" lived and they propagated the principle of secularism. It is unfortunate that nowadays there is an attempt to hijack the names of these legends by certain caste group as if they are their caste leaders. That should not be permitted. They are the reformers of our country. They are the leaders of all citizens of this country irrespective of the religion and caste. Social reformers of different religions should not be caged in their religion or caste at the instance of certain groups. If it happens, we will be insulting those legends. It will be beneficial to quote the famous words of 'Sree Narayana Guru', which says that this is a place where people reside in brotherhood without any difference based on their caste and religion. The

words are like this:

“ജാതിഭേദം മതദ്വേഷം  
ഏതുമില്ലാതെ സർവ്വതം  
സോദരതേന വാഴുന്ന  
മാതൃകാ സ്ഥാനമാണിത്”

16. The Local Registrar of Marriages (Common) appointed as per the Rules, 2008 should remember the above lines of Sree Narayana Guru while dealing with the applications for registration of marriages. Hypertechnical defects shall not be raised while entertaining the applications for registration of marriage. The intention of registration of marriage is clearly stated by the Apex Court in Seema's case (supra). The registration of marriage as per the Rules, 2008 will not prove a valid marriage, and it is only to protect the rights of the women and the children born in that marriage. Therefore, hypertechnical defects shall not be raised by the Marriage



Officers. The Registry will forward a copy of this judgment to the Secretary, Local Self Government Department, who shall issue a circular mentioning the dictum laid down in this judgment.

17. In this writ petition, the counsel for the petitioners submitted that the petitioners are ready to furnish a declaration in Form No-II from the persons narrated in Rule 9(3) of the Rules, 2008. If that is the case, the 2<sup>nd</sup> respondent shall register the marriage as per the Rules, 2008.

Therefore, this writ petition is allowed in the following manner:

1. Ext.P4 is set aside;
2. The 2<sup>nd</sup> respondent is directed to register the marriage of the petitioners if the petitioners submit Form No.I along with the declaration in Form No.II to prove the solemnization of marriage and in such event, the respondents shall issue the necessary certificate in accordance to law, as expeditiously as

possible, at any rate, within two weeks from the date of receipt of the application.

3. The Registry will forward a copy of this judgment to the Secretary, Local Self Government Department, State of Kerala, who shall issue a general circular mentioning the dictum laid down in this judgment.

**Sd/-**

**P.V.KUNHIKRISHNAN**

**JUDGE**

TR/das

APPENDIX

PETITIONERS EXTS:

EXT P1: COPY OF WEDDING INVITATION CARD.

EXT P2: COPY OF APPLICATION IN FORM NO.1 SUBMITTED BEFORE  
R2

EXT P3: COPY OF FORM NO.3 SUBMITTED BEFORE R2 WITH DETAILS  
OF TWO WITNESSES

EXT P4: COPY OF LETTER DTD 2.5.2009 ISSUED BY R1.

RESPONDENTS EXTS: NIL

*TRUE COPY*

P.A.TO JUDGE