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What the Supreme Court order on the validity of 'self-respect' marriages says

Such marriages are solemnised in the presence of relatives, friends, etc., with parties declaring each other to be husband or wife, in a language understood by them. They are required to be registered. What was the rationale behind them, and what has the top court said now?

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In its recent order, the Supreme Court allowed a petition challenging a Madras High Court order dated May 5 where the court had ordered the initiation of disciplinary action against the advocates who solemnised such marriages in their offices and issued marriage certificates to consenting adults. (File)

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The Supreme Court on Monday (August 28) observed that there is no blanket ban on advocates solemnising “self-respect” marriages under Section 7(A) of the Hindu Marriage Act, 1955.

In doing so, a Bench of Justices S Ravindra Bhat and Aravind Kumar set aside a 2014 ruling of the Madras High Court holding that marriages performed by the advocates are not valid and that “suyamariyathai” or “self-respect” marriages cannot be solemnised in secrecy.

What are ‘self-respect’ marriages?

On January 17, 1968, the Hindu Marriage (Tamil Nadu Amendment) Act, 1967, received the President’s approval and became the law. This amendment modified the Hindu Marriage Act of 1955, by inserting Section 7-A into it. However, it extended only to the state of Tamil Nadu.

Section 7-A deals with the special provision on “self-respect and secular marriages”. It legally recognises “any marriage between any two Hindus”, which can be

referred to as “suyamariyathai” or “seerthiruththa marriage” or by any other name.

Such marriages are solemnised in the presence of relatives, friends, or other persons, with parties declaring each other to be husband or wife, in a language understood by them. Further, each party to the marriage garlands the other or puts a ring on the other's finger or ties a “thali” or mangal sutra. However, such marriages are also required to be registered as per the law.

The rationale behind the Tamil Nadu government amending the Hindu Marriage Act, 1955, to include “suyamariyathai” or “self-respect” marriages, was to radically simplify weddings by shunning the need for mandatory Brahmin priests, holy fire and saptapadi (seven steps). This allowed marriages to be declared in the presence of the couple's friends or family or any other persons. In a nutshell, the amendment was made to do away with the need for priests and rituals, which were otherwise required to complete wedding ceremonies.

In its recent order, the Supreme Court allowed a petition challenging a Madras High Court order dated May 5 where the court had ordered the initiation of disciplinary action against the advocates who solemnised such marriages in their offices and issued marriage certificates to consenting adults.

What did the top court say?

In the case of “Ilavarasan v. Superintendent of Police”, a Bench of Justices Ravindra Bhat and Aravind Kumar was hearing an appeal of a man called Ilavarasan against a Madras High Court order passed in May 2023, rejecting his habeas corpus petition to present his wife before the court.

The petitioner had claimed that he had performed “suyamariyathai” with his wife, who was currently under her parents’ “illegal custody”. Refusing to accept the “self-respect” marriage certificate issued by the advocate, the Madras High Court dismissed Ilvarasan’s habeas corpus plea. Thus, he was compelled to move the top court, which successfully admitted his plea.

In doing so, the court overruled the 2014 ruling of the Madras High Court in “Balakrishna Pandian v. The Superintendent of Police”, where it was held that marriages performed by the advocates are invalid and that “suyammariyathai” or “self-respect” marriages cannot be solemnised in secrecy.

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The Madras High Court had held in its 2014 ruling: “We are very clear in our mind that even the protagonists of the Suyammariyathai/Seerthiruththa form of marriage did not visualize marriages being solemnised in secrecy. The very idea of performing marriages with celebration is to publicly declare the marital status of the parties. Even Thanthai Periyar used to conduct Suyamariyathai form of marriages publicly so that the world recognised the status of the couples. Hence, celebration of marriage is not antithetical to Suyammariyathai/Seerthiruththa form of marriage.

Therefore, we are of the opinion that a marriage conducted in secrecy with few strangers around, be it Suyammariyathai form, will not amount to solemnisation,

as required under Section 7 & 7-A of the Hindu Marriage Act”.

Further, the top court also relied on its 2001 ruling in “Nagalingam v. Sivagami”, which said that there is no blanket ban on advocates to solemnise marriages under Section 7(A) of the Hindu Marriage Act (Tamil Nadu State Amendment Act).

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What has the top court ruled on ‘self-respect’ marriages in the past?

In “S. Nagalingam vs Sivagami” (2001), a bench of Justices DP Mohapatra and KG Balakrishnan recognised the petitioner’s marriage with his wife to be a valid one despite the ceremony of “saptapadi” or seven steps around the sacred fire, not taking place.

Clarifying that the parties in the present case did not consider the “saptapadi” ceremony to be as essential as per their personal law, the court said that Section 7-A of the Hindu Marriage Act (Tamil Nadu State Amendment) would apply instead.

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“The main thrust of this provision is that the presence of a priest is not necessary for the performance of a valid marriage. Parties can enter into a marriage in the presence of relatives or friends or other persons and each party to the marriage should declare in the language understood by the parties that each takes the other to be his wife or, as the case may be, her husband and the marriage would be completed by a simple ceremony requiring the parties to the marriage to garland

each other or put a ring upon any finger of the other or tie a thali,” the court had observed in its ruling.

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