

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.6.2015

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

M.C.No.1 of 2005

Joseph Stanislaus .. petitioner/Petitioner

vs.

M.Mary Margaret Rani .. Respondent /Respondent

Case Referred to the High Court:

Under Section 10 Read with Section 18 and 19 of the Indian Divorce Act for confirmation of the decree passed by the district Judge Virudhunagar in O.P.No.89 of 1993 declaring the marriage of the petitioner herein and the Respondent herein Null and void.

For petitioner : Mr.B.Ramamoorthy

For Respondents: No Appearance

J U D G M E N T

(Judgment of the Court was made by M.JAICHANDREN, J.)

No appearance for the respondent.

2. The present Matrimonial Cause in M.C.No.1 of 2005, has been listed before this Full Bench for confirmation of the decree, in the original petition in O.P.No.89 of 1993, dated 26.8.1994, as per Section 17 of the Divorce Act, 1869, which had required that every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court.

3. The Matrimonial Cause in M.C.No.1 of 2005, had been taken on file by this Court and it has been ordered to be placed before a Full Bench of this Court.

4. It is noted from the records available that a notice had been ordered to the respondent. However, it had been returned as unserved as the respondent had refused to receive the same.

5. At the outset, Mr.B.Ramamoorthy, the learned counsel appearing on behalf of the petitioner had submitted that Section 17 of the Divorce Act, 1869, had been substituted by Act 51 of 2001, with effect from 3.10.2001. He had further submitted that prior to the substitution, a decree for a dissolution of marriage made by a District Judge had to be confirmed by the High Court as per Section 17 of the Divorce Act, 1869. However, after the amendment by Act 51 of 2001, there was no need for confirmation by the High Court. He had placed before this Court a decision of the Full Bench of the High Court of Bombay, in ASIS UBALDO RODRIGUES Vs. MARIA ASIS RODRIGUES (2006 (2) CTC 32) in support of his contentions.

6. In view of the submissions made by the learned counsel appearing for the petitioner and in view of the decision of the Full Bench of the High Court of Bombay cited above and on a perusal of the records available, we are of the considered view that there is no necessity for this Full Bench to confirm the decree passed by the learned District Judge, The Nilgiris, at Uthagamandalam in O.P.No.89 of 1993, dated 26.8.1994, granting a decree of divorce in favour of the petitioner. As such, the decree passed by the learned District Judge, The Nilgiris, at Uthagamandalam in O.P.No.89 of 1993, dated 26.8.1994, could be considered to be final in nature, in view of the amendment of the Divorce Act 1869, which has come into force with effect from 3.10.2001.

For the reasons stated above, the Matrimonial Cause is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Judge,  
Cum Judicial Magistrate,  
Nilgiris at Udhagamandalam.

+1cc to M/s.B.RamaMoorthy, Advocate sr.26450

M.C.No.1 of 2005

ug[co]

srg 19.08.2015