

IN THE COURT OF THE SUB JUDGE AT COONOOR

Present:- Thiru.S.Chandrasekaran, M.L.,

Sub Judge, Coonoor.

(J.O.Code: TN01442)

Tuesday the 23rd day of January 2024
(2054 Thiruvalluvarandu, Sobakirudhu Varudam, 09th day of Thai)

H.M.O.P.No.49/2023 (TNNS0E-000157-2022)

Smt.Sri Durga

.... Petitioner

/Vs./

Mr.K.Praveen

.... Respondent

This petition is coming on 16.11.2023 for final hearing before this Court, in the presence of Thiru.B.Sugumaran, Advocate for the Petitioner and Respondent is remained exparte and upon hearing the petitioner's side argument, and upon perusing all connected material records and having stood over till this day, for consideration, this court delivered the following:

ORDER

This petition is filed by the Petitioner U/s.12 of the Hindu Marriage Act,1955 to declare that the voidable marriage between the petitioner and the Respondent which took place on 08.07.2019 at Kambatty Village, T.Manihatty Post, The Nilgiris as null and void and cost of the petition.

2. The petitioner would contend that, the marriage between herself and the Respondent took place on 08.07.2019 in the residence of the respondent at Kambatty Village, T.Manihaty Post, The Nilgiris, as per Hindu rites and customs prevailing in their community, when the petitioner was at the age of 17 which is a voidable marriage. No Marriage invitation was printed for their marriage. After the marriage, the Petitioner and the Respondent lived in the residence of the Respondent at Kambatty Village. The Respondent is addicted to alcohol and his habit is to drink daily, come home late night, quarrel with the Petitioner for simple reason and abuse her with filthy language and assault her. During her stay with him for 6 months she became pregnant and even then he did not take proper care of her. The petitioner begotten a female child on 27.03.2020 at Siva Sakthi Hospital, Udthagamandalam. After the child was born also, he was very adamant and he did not bother to see the child. The Petitioner's mother with great difficulty could manage to pay the bills during the time of Covid-19 restrictions and discharged her from hospital. The child was named Lakshitha and even for the naming ceremony, the Respondent visited the Petitioner's house as a guest and disappeared after a short while. When the child was 3 months old i.e., on 20.06.2020 the petitioner took the child along with a village elder, visited her matrimonial home as per the custom, they were ill treated by the Respondent and within a short while, the

Respondent came fully drunk and started assaulting the Petitioner and the guests who accompanied her, were forcibly driven away from his house. The village people some how rescued them and they had to come to the neighboring village Baralatty, hired a vehicle and reached their village. The act of the defendant led her to mental torture and the same amounts to cruelty. From 20.06.2020 the respondent did not bother to visit the petitioner and the child and from then, they are living separately. The Petitioner waited with a fond hope that, he would mend his ways and take her and the child back. In spite of the best efforts of the elders and well wishers, a re-union not having been possible. As their marriage took place at the age of 17, she is filing the present petition for the relief of Nullity of Marriage.

4. The respondent remained exparte. The petitioner, in order to prove her case, examined herself as PW-1 and marked the Ex.P1 to Ex.P3.

5. The petitioner deposed in the line of her case, the Ex.P3 shows the identity of the petitioner. The reading of the Ex.P1 in conjoint with the oral evidence of PW-1, as nothing is available to doubt, made it clear that, the marriage has been solemnized between the petitioner and the respondent on 08.07.2019.

6. The petitioner had filed this petition mainly contending that, the marriage was solemnized with the respondent when she was in her age of 17 years. To prove the age of the petitioner, she had produced the Ex.P2, the birth certificate which shows that, the petitioner was born on 04.06.2022. So, it is clear that, on the date of the marriage mentioned in the evidence of PW-1, she had not completed the age of 18 years which is mandatory as per Sec.5(iii) of Hindu Marriage Act, 1955. The respondent was served with notice in this proceedings, but, he remained exparte. As there is nothing on record to dispute the fact that, the petitioner has not attain the age of 18 years at the time of her marriage, this court has no reasons to disbelieve the evidence of PW-1. Therefore, this Court comes to the conclusion that, the marriage of the petitioner was solemnized in contravention of the Sec.5(iii) of Hindu Marriage Act, 1955. Such contravention made her marriage voidable and make it eligible to be annulled by the decree of nullity as per Sec.12(i)(b) of Hindu Marriage Act, 1955. Since, the petitioner had established that, her marriage was solemnized when she had not completed the age of 18 years, nothing would prevent the court from passing a decree of nullity annulling the marriage of the petitioner. Therefore, this court comes to the conclusion that, the petitioner is entitled to the decree of nullity of her marriage. The Point is answered accordingly.

7. In the result,

This petition is allowed by passing the decree of nullity annulling the marriage solemnized on 08.07.2019 between the petitioner and respondent at Kambatty Village, T.Manihatty Post, The Nilgiris. No Costs.

Dictated to Steno-Typist, directly Typed by her in computer, corrected and pronounced by me in open court, on this the 23rd day of January 2024.

Sub Judge,
Coonoor.

I. Petitioner's Side Witnesses:

1. P.W-1 - Smt.Sri Durga

II. Petitioner's Side Exhibits:

Ex.P1	08.07.2019	Marriage Photo	Original
Ex.P2	13.07.2023	Birth Certificate of the Petitioner	Online Copy
Ex.P3	27.04.2020	Birth Certificate of the Petitioner's Daughter	Online Copy
Ex.P4	-	Aadhar Card of the Petitioner	Compared Copy

III. Respondent's Side Witnesses & Exhibits: Nil

Sub Judge,
Coonoor.

Verified and uploaded by,
Steno-Typist.