

IN THE HIGH COURT OF FIJI

AT SUVA

CIVIL JURISDICTION

CIVIL ACTION NO.: HBC 495 OF 2007

BETWEEN: RONEIL KUMAR SEWAK f/n Raj Kumar

Plaintiff

A N D: VIKASHNI DEVI f/n Vinod Chand

First Defendant

REGISTRAR GENERAL

Second Defendant

Mr. R. Singh for Plaintiff

Ms S. Seruilagilagi for Second Defendant

Date of Hearing: 13th February 2008

Date of Judgment: 13th March 2008

JUDGMENT

The plaintiff in this action was married to one Komal Karishma Chand in the State of Washington, USA. On 1st December 2006 the plaintiff was divorced from her. A decree to this effect from the Superior Court of Washington is before the court. On 20th December 2006 he married one Vikashmi Devi in the Registrar General Office, Lautoka Registry. He was issued with a marriage certificate. In it his conjugal status is shown as bachelor. In fact he was a divorcee. He now wants his conjugal status in his marriage certificate to be altered to read divorced.

The Registrar General opposes the application. He says that prior to his marriage the plaintiff had made a declaration showing his conjugal status as bachelor. In that application under the heading status appear the words (bachelor, spinster, widower, widow, divorced). This is clear indication that a person is required to pick the correct word from the five words in brackets. The plaintiff is a private investigator. That is how he described himself. He had only been divorced nineteen days earlier so the fact he was divorced would be clearly known to him.

Section 28 of Births, Deaths & Marriages Act:

This application is made under Section 28(b) of the Births, Deaths and Marriages Registration Act Cap 49. It allows errors of fact or substance to be corrected by the Registrar by entry in the margin without altering the original entry.

The Registrar General submits that the plaintiff knowingly gave the false information that he was a bachelor. He submits that the onus is on the person giving the information to supply the correct information.

From the circumstances of the case the Registrar's view that the plaintiff knowingly gave incorrect information is impossible to refute. The plaintiff was only divorced nineteen days earlier. He had to pick out of five words his correct status. He is a private investigator and I assume therefore not only has a keen eye but can also read.

Public Document:

Certificates issued under the Births, Deaths and Marriages Registration Act are public documents. A public officer obtains information and records those details. It is presumed that the information contained in public documents is true and accurate. The certificate issued by the Registrar are granted statutory admissibility in courts of law and the contents "***shall be received in any court as conclusive evidence of that fact***" – Section 26 of the Act.

It would be ironical that an incorrect information was to be accepted as conclusive evidence. Accordingly I am of the view that the error ought to be corrected provided the parties to the marriage file a declaration with the Registrar. The Registrar can then make his usual entries in the margin. This was a mistake which I believe was not unintentional and I see no reason why the applicant should not pay costs to the Registrar which I summarily fix in the sum of \$300.00 to be paid in seven (7) days or prior to the declaration being filed with the Registrar.

Final Orders:

I order the Registrar to correct the error appearing in the conjugal status of the applicant by entering the word "**divorced**" on the margin. This is to be done upon production of a declaration which complies with the requirements of Section 28(b) of the Act. The applicant is to pay costs to the Registrar of \$300.00 in seven (7) days or prior to the filing of the declaration.



[Jiten Singh]
JUDGE

At Suva
13th March 2008