

IN THE FAMILY DIVISION OF THE HIGH COURT	
AT LAUTOKA	
ORIGINAL JURISDICTION	
CASE NUMBER:	09/LTK/0487
BETWEEN:	RAMENDRA
	APPLICANT I
AND:	POOJA
	APPLICANT II
Appearances:	Applicant I in Person.
	No appearance of Applicant II.
Date/Place of Judgment:	Thursday, 20 th January, 2011 at Lautoka.
Judgment of:	The Hon. Justice Anjala Wati.
Category:	All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarities to any persons is purely coincidental.
Anonymised Case Citation:	RAMENDRA v POOJA - Fiji Family High Court Case Number: 09/LTK/0487.
JUDGMENT OF THE COURT	
<i>MARITAL STATUS PROCEEDINGS - APPLICATION FOR AN ORDER FOR NULLITY - application by parties jointly to have the marriage nullified and the ground identified in the application was "no real consent"- no evidence as to "no real consent" and also as to whose consent was not real-no basis for the application-application dismissed with no order as to costs.</i>	
<i>Legislation</i>	
<i>Family Law Act No. 18 of 2003.</i>	

The Application

1. This is an application by the parties jointly to have their marriage - nullified on the ground that there was no real consent.
2. As a preliminary observation, there is no marriage certificate attached to or filed with the application to substantiate that there was a marriage in fact. This is an application accepted in haste by the registry and not in compliance with the rules that in marital status proceedings, marriage certificates must be filed: Rule 6.04 of the Family Law Rules 2005. This is not a fanciful rule as the court needs to know before dissolving or nullifying a marriage that the marriage exists in fact. Otherwise there is no purpose in going through the court process of dissolving or nullifying a marriage.
3. The Registry must make note of these comments. A copy of this judgment would be sent to the Deputy Registrar to implement the shortfall in filing applications of this nature.

The Law

4. The parties have also outlined in their application that their consent was not a real consent. S. 32 (2) (d) outlines the various ways in which the consent can be held not to be real. S. 32 (2) (d) (i) states that if there is duress or fraud then the consent is not real. S. 32 (2) (d) (ii) states that if the party is mistaken as to the identity of the other party or as to the nature of the ceremony performed then the consent is not real consent. S. 32 (2) (d) (iii) states that consent can also not be real if the party is incapable of understanding the nature and effect of the marriage ceremony.

The Evidence

5. The husband appeared in court and gave evidence but the wife did not. The husband said in his evidence that both the parties want the marriage to be nullified. Both of them got married. He was happy to get married with her and when they got married, there was no traditional marriage. Traditional marriage was to take place in - 2009 and -a month before that, the girl ran away with another man.

The Determination

6. On the husband's part there is no evidence that his consent was not real. There is also no evidence that the wife's consent was also not real. In the circumstances the ground is not established and the application must be refused. The parties can apply for dissolution of marriage.

The Final Orders

7. The application for an order for nullity of marriage is refused.
8. There shall be no order for costs.

Judge

20.01.2011

To: