

IN THE FAMILY DIVISION OF THE HIGH COURT AT LAUTOKA

ORIGINAL JURISDICTION

ACTION NUMBER:	18/RAK/0010
BETWEEN:	SAAKSHI APPLICANT
AND:	AADHAV RESPONDENT
APPEARANCES:	<i>Mr. J. K. Sharma and Ms. Kumar for the Applicant.</i> <i>No Appearance for the Respondent.</i>
DATE/PLACE OF JUDGMENT:	<i>Friday 29 September 2023 at Suva.</i>
CORAM:	Hon. Madam Justice Anjala Wati
CATEGORY:	<i>All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarity to any persons is purely coincidental.</i>

JUDGMENT

Catchwords:

FAMILY LAW – **APPLICATION FOR AN ORDER FOR NULLITY OF MARRIAGE** – *wife raises that she did not provide her real consent to the marriage as the same was induced by fraud on the part of the respondent when he did not reveal his true sexual orientation to her leading to him not being able to consummate the marriage – fraud established- marriage annulled.*

1. The wife had made an application for an order to annul her marriage on the grounds that her consent to the marriage was not real as it was induced by fraud on the part of the husband.

2. After hearing the evidence I was satisfied that the husband had concealed from the wife his true sexual orientation in that he was not inclined towards having sexual intercourse with a woman as a result of which their marriage remained unconsummated.
3. The husband's concealment of this relevant information made the wife believe that she was marrying a man who could biologically perform the functions of a husband. Had she known about his true sexual orientation, she would not have provided her consent to get married to him.
4. Like all other women, and as required by law, the applicant expected an exclusive sexual relationship with her husband after the marriage which did not occur as a result of the respondent's sexual orientation.
5. The respondent did not fulfil the legal expectations of his wife. His conduct of concealing and hiding his true sexual orientation from his wife amounts to fraud on his part.
6. The wife was entitled to have her marriage nullified and based on the reasons above, I had issued an order to nullify the marriage.

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Hon. Madam Justice Anjala Wati

29.09.2023

To:

1. **Janend Sharma Lawyers for the Applicant**
2. **Respondent in Person.**
3. **File: Family Case Number: 18/RAK/0010.**