

IN THE FAMILY DIVISION OF THE HIGH COURT AT SUVA

ORIGINAL JURISDICTION

ACTION NUMBER:	16/SUV/0127
BETWEEN:	ABHILASH APPLICANT
AND:	KAASHVI RESPONDENT
APPEARANCES:	Applicant in Person. Respondent in Person
DATE/PLACE OF JUDGMENT:	Wednesday 4 October 2023 at Suva.
CORAM:	Hon. Madam 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 similarity to any persons is purely coincidental.

JUDGMENT

Catchwords:

FAMILY LAW – APPLICATION FOR AN ORDER FOR NULLITY OF MARRIAGE – evidence reveals existence of duress on the wife and fraud on the husband – application for an order for nullity of marriage granted.

1. The husband had applied for an order for nullity of the marriage which I had granted.
I publish my reasons now.

2. The ground raised by the husband was that his consent was induced by fraud on the part of the wife in that she did not disclose to him that she was in love with a Muslim man and in a stable relationship with him for some time. After the civil union with him, she went away to live with that man.
3. The evidence of the parties reveal that the respondent lady was already in a relationship with a Muslim man before the civil union. She was not allowed by her family to marry the Muslim man. She was under a lot of difficulty from her parents given the religion barrier between the two. Due to that I find that she could not refuse this marriage with the man of her parents' choice.
4. When the civil union between the parties to the marriage took place, she had no choice but to leave her parents place to live with her lover.
5. I find that it was due to the pressure from her parents that she concealed the information from the applicant that she was in a de-facto relationship with the Muslim man with whom she eloped after the civil union.
6. The non-disclosure of this material information precluded the applicant from making an informed decision on whether he would provide his consent to marry the respondent who was already in an exclusive relationship with another person. I agree with him that if he had known that, he would not have provided his consent to marry her. His consent to that end was induced by fraud.
7. I find that there was both fraud and duress present to annul the marriage.

.....
Hon. Madam Justice Anjala Wati

04.10.2023

To:

1. Applicant.
2. Respondent.
3. File: Family Case Number: 16/SUV/0127.