

IN THE FAMILY DIVISION OF THE HIGH COURT AT SUVA

ORIGINAL JURISDICTION

ACTION NUMBER:	19/SUV/0482
BETWEEN:	SAFIYA APPLICANT
AND:	FAAKHIR RESPONDENT
APPEARANCES:	Ms. A. Prakash (LAC) for the Applicant. No Appearance for the Respondent.
DATE/PLACE OF JUDGMENT:	Friday 6 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 – wife raises that her maternal cousin forced her to get married to the respondent- the evidence does not establish any duress- application dismissed.

.....

1. The applicant has applied for an order to annul the marriage solemnized between the parties. She says that she was pressurized by a maternal cousin sister to get married to the respondent.
2. Her evidence was that if she did not get married to the boy selected by her cousin, she would not look after her or help her in anyway.
3. The applicant's parents had died and she was living with her two sisters either in Labasa or in Tavua. She only came to visit her maternal cousin sister in Suva. She was not staying with this cousin permanently. If she did not wish to marry the person selected by the cousin, she could have informed her sisters and returned to live with them. She did not ever inform the sisters that she does not want to marry the person selected by the cousin.
4. The applicant was not even financially dependent on the cousin to succumb to the alleged pressure that she put on her. She could have easily walked out of her place. I do not find that the applicant's powers of volition were paralyzed.
5. I find from the evidence that the real reason for the application is that there was a commotion between the two families after the civil union. The applicant's evidence is clear. She testified that when the discussion about the traditional wedding date took place, the applicant's sisters did not agree to an early date. The respondent's family had started shouting at them. The applicant says that this scared her. She started thinking how she was going to spend her life with that family when they were not even listening to her sisters. She then thought that she would not get married to him.
6. If the applicant did not ever want to marry the respondent, she could have informed her sisters about the situation and they would not even go to the extent of discussing the traditional marriage. I find that it is this family commotion after the civil union that caused the applicant to change her mind and not that she was forced to get married by the cousin.
7. I dismiss the application for an order for nullity of marriage.

.....
Hon. Madam Justice Anjala Wati

06.10.2023

To:

1. Legal Aid Commission for the Applicant.
2. Respondent.
3. File: Family Case Number: 19/SUV/0482.