

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Civil Miscellaneous Appeal No.726 of 2008

JUDGMENT: *(per Hon'ble Sri Justice V. Ramasubramanian)*

This appeal is by the wife, questioning a decree of declaration that the marriage solemnized between her and the respondent was null and void.

2. Heard Sri S.Appadhara Reddy, learned counsel for the appellant and Sri Nimmagadda Satyanarayana, learned counsel for the respondent.

3. On a petition in OP No.35 of 2004 filed by the respondent-husband under Section 11 of the Hindu Marriage Act, 1955, the Additional Senior Civil Judge, Eluru, granted a decree declaring the marriage solemnized between the parties as a nullity for contravention of Section 5(i) of the Hindu Marriage Act, 1955. It is against the said decree that the wife is before us.

4. In the counter filed by the appellant/wife before the court below, she admitted that she was married earlier to another person way back in the year 1989. The appellant claimed that the said marriage was dissolved in the presence of the family members and that after posting the respondent/husband with full facts, the respondent took her in marriage.

5. In other words, the factum of first marriage was admitted by the appellant. She has admitted that the first marriage was not dissolved by a decree of divorce granted by a competent court. Her defence is virtually two fold, namely (a) that the respondent had knowledge of the marriage; (b) that the first marriage was dissolved in the presence of the family members.

6. Knowledge of first marriage will not actually validate the marriage solemnized between the appellant and the respondent. A divorce by any body other than a competent court is also not recognized by law. Therefore, the decree granted by the trial court cannot be found fault with. Hence, the appeal is dismissed. There shall be no order as to costs. Pending miscellaneous applications if any, in this appeal shall stand closed.

V.RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 28.06.2016
BSS

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