

**25-08-2021**  
Item no.37  
**Subrata**

**IN THE HIGH COURT AT CALCUTTA**  
Civil Appellate Jurisdiction

**SAT No.58 of 2020**  
**Md. Rajkumar**  
**-vs-**  
**Sulekha Begum**  
**with**  
**CAN No.1 of 2020**  
(Old CAN No.2929 of 2020)  
**and**  
**CAN No.2 of 2020**

Mr. Swagata Dutta ...for the appellant

Mr. Pratip Kumar Chatterjee ...for the respondent

This second appeal is admitted on the question of jurisdiction : whether the learned trial court, being the 1<sup>st</sup> court of the learned Civil Judge (Junior Division), Kandi, Murshidabad, inherently lacked jurisdiction to entertain, try and determine the application for dissolution of marriage by granting a decree of divorce?

The first appellate court set aside the decree of the learned trial court. This second appeal is by the petitioner who had approached the learned trial court.

It is now submitted on behalf of the appellant that the entire proceedings were vitiated for inherent lack of jurisdiction by the learned trial court.

This submission, in our view, is correct. Although the appellant had invoked the jurisdiction of the learned trial court not having jurisdiction, still this point, being a point of law, is open to him. An application for grant of decree of dissolution of marriage and divorce could not be filed before the learned Civil Judge (Junior Division).

Accordingly, the entire proceedings are vitiated. The orders of the learned trial court and the first appellate court are a nullity in the eyes of law. We declare them to be such and quash the order of the Additional District Judge, Kandi, Murshidabad dated 26<sup>th</sup> November 2019 in Civil Appeal No.01 of 2017 and also the decree dated 11<sup>th</sup> August 2017 of the Civil Judge (Junior Division), 1<sup>st</sup> Court at Kandi, Murshidabad in Matrimonial Suit/Case No.07 of 2015.

The court of the first instance shall return the entire cause papers to the jurisdictional court, within four weeks of communication of this order. The jurisdictional court, in turn, shall register the same by allotting a number to the proceedings. All formalities regarding transfer shall be complied with by the parties.

The appeal and the connected applications are accordingly disposed of.

**[I.P. Mukerji, J]**

**[Aniruddha Roy, J]**

