

IN THE FAMILY DIVISION OF THE HIGH COURT AT SUVA

ORIGINAL JURISDICTION

ACTION NUMBER:	18/SUV/o611
BETWEEN:	RADHESH APPLICANT
AND:	SUSHMITA 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 – husband’s consent induced by fraud-application for an order for nullity granted.*

1. The husband had applied for an order for nullity his marriage on the ground that the consent he provided to his marriage was not his real consent as it was induced by fraud on the part of the wife.
2. After hearing the evidence, I was satisfied that the wife had not disclosed material informing to the husband affecting the root of the marriage and had the husband known of that information, he would not have agreed to the marriage. I had therefore granted an order for nullity of marriage. I now publish my reasons.

3. The wife in this case admitted that she was 5 weeks pregnant at the time she consummated the marriage with the applicant. The child is not the applicant husband's as the first time they had sexual intercourse was after their traditional marriage. The medical evidence also established that the wife was pregnant before the traditional marriage. The 5 weeks pregnancy of the wife indicates that she was in a relationship with another man after her civil union with the applicant husband.
4. The above indicates that the wife was already in a stable relationship with another man before the civil union for her to neglect and disregard this civil union and become pregnant with another man. Her failure to disclose this relationship with another man deprived the husband of full information to decide whether he would agree to marry the respondent.
5. I find that had she disclosed her relationship status with another man to the applicant, he would be in a position to make a proper decision. The concealment of the information made him agree to the marriage which he otherwise would not have entered into.
6. I cannot burden him with the task of being a step parent of a child without his consent. I find that there was fraud on the part of the wife that induced his consent to the marriage. It was on this basis that I had granted an order nullifying their marriage.

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Hon. Madam Justice Anjala Wati

04.10.2023

To:

1. Applicant.
2. Respondent.
3. File: Family Case Number: 18/SUV/o611.