

Mabel Flora Murphy Vs. James Lloyd Murphy

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Court : Mumbai

Decided On : Jul-01-1920

Reported in : AIR1921Bom211; (1920)22BOMLR1077; 76Ind.Cas.633

Judge : Marten, J.

Appeal No. : Suit No. 530 of 1920

Appellant : Mabel Flora Murphy

Respondent : James Lloyd Murphy

Judgement :

Marten, J.

1. This is a wife's petition for a divorce on the ground of her husband's adultery and cruelty.

2. The respondent is an officer in the Indian Army and he married the petitioner in 1911 at Mhow. The parties resided subsequently at several places and in particular in Burma. Then the husband went out to Mesopotamia, and in the following year, in September or October-1918, he came back on leave from Mesopotamia and he and his wife resided for the greater portion of a month at the Taj Mahal in Bombay, the only interval being that of one week when they went to stay at Moimt Abu.

3. The first point that arises is the question of jurisdiction as to whether the case is brought in a Court within the jurisdiction of which the parties last resided together. Now, that point was considered by Mr. Justice Fletcher in *Bright v. Bright* I.L.R. (1909) Cal. 964, where he held that residence at the Grand Hotel at Calcutta for about a fortnight satisfied the conditions of the Act. The learned Judge in that case relied on the fact that the husband and wife never had a permanent residence, that the husband was engaged as an Engineer on the Railway, and that his habitation seemed to be changed very frequently. That, of course, applies with still greater force in the present case where the husband is in the Army, and in the Army during the period of the war. The residence here in Bombay was substantially longer than that in Mr. Justice Fletcher's case. And I think that on the whole I may hold that there was a sufficient residence here within the meaning of the Act to found the necessary jurisdiction on.

4. In saying that I have not overlooked the case of *Arthur Flowers v. Minnie Flowers* I.L.R. (1910) All. 203; but there, as appears at page 205, there was a temporary sojourn for a day or two. Similarly, I think, the case of *Nusserwanjee Wadia v. Eleonora Wadia* I.L.R. (1913) Bom. 125 : 15 Bom. L.R. 593, is distinguishable. That was a case under an earlier section of the Act as to residence. But here both the parties were within the jurisdiction when the petition was served on the respondent. I think, therefore, so far as the question of jurisdiction is concerned, the case is in order.

5. [His Lordship then dealt with the merits of the case and in the end passed a decree for the dissolution of the marriage.]