

Gomes Vs. Gomes

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Court : Kolkata

Decided On : Mar-24-1891

Reported in : (1891)ILR18Cal443

Judge : Wilson, J.

Appellant : Gomes

Respondent : Gomes

Judgement :

Wilson, J.

1. This was a divorce case in which the decree nisi was made in due course. That decree has been properly served upon the respondent. Yesterday, when the case was set down for the purpose of making the decree absolute, a point arose which I took time to consider. The point was whether notice of the application to make the decree absolute ought to be given to the respondent. I find there has been a variation in the practice. Formerly the practice seems to have been strictly observed of requiring service of such notice. But the more usual practice of late appears to have been not to require it; and it seems to me that, as a matter of principle, it ought not to be required. For all purposes for which the respondent is entitled to come before the Court, as for instance, for the purpose of an appeal, or for the purpose of making an application for review, the service of the decree nisi is sufficient. Therefore I think the more modern practice of not requiring notice to

be given of the application for a decree absolute, when once the decree nisi has been served, is the proper one. The decree must be made absolute with costs.

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