

(2002) 04 KAR CK 0046

In the Karnataka High Court

Case No : Civil Reference Case No. 31 of 1999 and Miscellaneous First Appeal
No. 164 of 1999

Rosy Kurian Kannanaikal

APPELLANT

Vs

Joseph Verghese Cheeran

RESPONDENT

Date of Decision : 05-04-2002

Acts Referred:

Divorce Act, 1869 — Section 10, 14, 19, 20
Family Courts Act, 1984 — Section 19, 19 (1)

Citation : (2002) 2 DMC 79 : (2002) ILR (Kar) 1831 : (2004) 3 KarLJ 75 :
(2002) 2 KCCR 1445

Hon'ble Judges : N.K. Jain, C.J.;V.G. Sabhahit, J;R.V. Raveendran, J;N. Kumar,
J;K.L. Manjunath, J

Bench : Full Bench

Advocate : D'sa and A. Lobo, in C.R.C. No. 31 of 1999, K. Narayana, K.V. Shivaprasad and Subhosh Joseph, in MFA No. 164 of 1999, for the Appellant;
D'Sa and A. Lobo in MFA No. 164 of 1999 K. Narayana, K.V. Shivaprasad and Subhosh Joseph, in C.R.C. No. 31 of 1999, for the Respondent

Judgement

N.K. Jain, C.J.

A Full Bench of this Court not agreeing with the view taken by an earlier Full Bench decision in the case of Jayakumar v. Smt. Harriet Nirmala and observing that "there are number of reference petitions pending in this Court which shall now have to await the decision of the larger Bench", has referred this matter to the Hon"ble Chief Justice to constitute a larger Bench vide its order dated 15-12-2000.

2. As per the direction of the Chief Justice vide order dated 8-3-2002, the matter has been placed before this larger Bench of five Judges with advance notice on 15-3-2002. The points referred for consideration, are:

(i) Whether a reference to High Court for confirmation of a decree for dissolution of marriage or nullity of marriage, under Sections 17 and 20 of the Divorce Act,

1869, is necessary where such decree is granted by a Family Court, under the Family Courts Act, 1984?

(ii) Whether an appeal lies to a Division Bench of the High Court u/s 19 of the Family Courts Act, 1984 against a judgment and decree of the Family Court passed u/s 14 or 19 of the Divorce Act, 1869?

(iii) If the answer to point (ii) is in the negative, whether confirmation is called for in the instant case?

3. The facts leading to the order of reference are as follows:

The petitioner-wife and the respondent-husband are Christians. They were married according to the Christian rites on 28-4-1991 at Bangalore. The petitioner filed the petition in M.C. No. 648 of 1994 u/s 10 of the Divorce Act, 1869 (for short, "the Divorce Act") in the Family Court at Bangalore, making allegations against her husband with regard to his having relationship with other women, in addition to allegations of sodomy, physical injury, demanding of dowry and subjecting her to mental cruelty stating that she has become an object of divine displeasure. The petition was hotly contested. It was allowed by an order dated 5-12-1998 dissolving the marriage between the contesting parties under the provisions of the Divorce Act.

4. The Family Court in purported compliance of Section 17 of the Divorce Act has submitted the impugned decree of dissolution of marriage to the High Court for confirmation by a three Judges Bench. The reference was numbered as C.R.C. No. 31 of 1999. However, the respondent-husband preferred an appeal u/s 19(1) of the Family Courts Act, 1984 (for short, "the F.C. Act") against the aforesaid decree in M.F.A. No. 164 of 1999. When the appeal preferred by the husband was taken up for consideration, the respondent contended the same was not maintainable. The Division Bench which heard the appeal, considering the provisions of the F.C. Act and the Divorce Act came to the conclusion that as the impugned judgment and decree of dissolution of marriage has been passed u/s 17 of the F.C. Act and not under the Divorce Act, the requirement of confirmation by the High Court as postulated u/s 17 of the Divorce Act cannot have any application and therefore reference made to the High Court by the Family Court in C.R.C. No. 31 of 1999 was unwarranted and impermissible and consequently it held that the miscellaneous appeal preferred u/s 19 of the F.C. Act is maintainable and the reference before the Full Bench was declared as infructuous.

5. The said judgment of the High Court was challenged by the wife before the Supreme Court in Civil Appeal No. 4205 of 2000. The Supreme Court after considering the rival contentions held as the civil reference u/s 17 of the Divorce Act was pending before a Bench of three learned Judges of the High Court, the same should be clubbed with the appeal filed u/s 19(6) of the F.C. Act and both could be heard together by a Bench of three learned Judges. The Supreme Court did not express any opinion on the correctness of the order dated 27-9-1999 of the Division Bench of this Court on maintainability and left it to be decided by the

Bench of three Judges both on the question of maintainability and on merits and remitted the matter back to the High Court. After remand both the C.R.C. No. 31 of 1999 and M.F.A. No. 164 of 1999 were taken up for consideration by a Bench of three Judges of this Court.

6. In the meanwhile, another Bench of three Judges of this Court on 27-11-2000 in C.R.C. No. 11 of 1999 (Jayakumar's case, *supra*), accepted the reasoning in the order dated 27-9-1999 of the Division Bench in M.F.A. No. 164 of 1999 and endorsed the view taken by the Division Bench. It was held that the question of confirmation of decree did not arise. Interpreting Section 22 of the F.C. Act the said Bench of three Judges held in view of the overriding provision of that section there could be no scope to apply the provision as to confirmation of the decree in terms of Section 20 of the Divorce Act; that such provision for confirmation becomes inapplicable and otiose in case an order is passed or judgment is rendered by the Family Court; and that confirmation of decree by High Court and remedy of appeal to the High Court cannot be concurrent and cannot coexist.

7. However, when this matter came up before another Bench of three Judges, after remand, they were unable to take the same view. By, order dated 15-12-2000, they were of the opinion that in view of Section 17 of the Divorce Act, the decree of dissolution of marriage passed by the District Judge u/s 10 of the Divorce Act, does not, in fact and in law, become a decree without confirmation u/s 17 of the Divorce Act by the High Court. Proceedings u/s 17 of the Divorce Act would virtually be a continuation of the original lis u/s 10 of the Divorce Act. Even after the enactment and enforcement of the Family Courts Act, the decision with regard to the proceedings u/s 17 does not change. Nothing in the F.C. Act including Sections 19 and 20 of the F.C. Act bars or prohibits the proceedings u/s 17 of the Divorce Act. The decree of divorce passed by the Family Court does not become final and is not appealable u/s 19 of the F.C. Act. The judgment and order passed by the Family Court u/s 10 of the Divorce Act is not a judgment or decree as contemplated u/s 19 of the F.C. Act. It can become a decree as contemplated u/s 19 of the F.C. Act only after confirmation of the decree by the High Court u/s 17 of the Divorce Act. Section 19 of the F.C. Act clearly lays down that no appeal would lie from an interlocutory order passed by the Family Court. An order u/s 14 of the Divorce Act is not a final order and would be in the nature of an interlocutory order or non-final order in view of the mandatory provisions of Section 17 of the Divorce Act. For other reasons set out in detail in the said order dated 15-12-2000, they were of the opinion that no appeal lies against the order passed by the Family Court under the Divorce Act. As the said view was different from the view expressed by a coordinate Bench in C.R.C. No. 11 of 1999, they were of the view that the matter requires to be considered by a larger Bench of this Court. Accordingly, the said matter is placed before us as already stated.

8. Learned Senior Counsel D'Sa submits that the decree of dissolution of marriage, whether passed by the Family Court having the jurisdiction over the

area or by a District Court has, to be confirmed by the High Court. He further submits further submits that the substantive law is the Divorce Act and therefore, the reasoning given by the earlier Full Bench relying on Division Bench decision in Joseph Verghese Cheeran's case, is not correct and the latter Full Bench has laid down the correct proposition of law.

8-A. We have heard the learned Counsel for the parties at length, perused the materials on record and the relevant provisions of the Acts.

9. The short question that arises for our consideration is whether the appeal filed by the respondent u/s 19 of the F.C. Act against the order dated 5-12-1998 passed by the I Additional Principal Judge, Family Court, Bangalore, in M.C. No. 648 of 1994 is maintainable or whether the reference made by the District Judge u/s 17 of the Divorce Act is maintainable and so also regarding the merits of dispute between the parties in the case as referred.

10. Before going into the merits, it will be appropriate to know how the F.C. Act came into existence. The Law Commission in its 59th report (1974) had stressed that in dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. The CPC was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use was made by the Courts in adopting this conciliatory procedure and the Courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was therefore, felt, in the public interest, to establish Family Courts for speedy disposal of family disputes and as such F.C. Act was enacted.

11. It will be appropriate to refer to the various provisions of the F.C. Act and so also the Divorce Act.

11.1 Section 7 of the F.C. Act deals with the jurisdiction of the Family Court and Section 8 deals with exclusion of jurisdiction of District Court or any subordinate Civil Court and the powers of Magistrate, where a Family Court has been established for any area and provides for the transfer of suits or proceedings referred therein to the Family Court on the date on which it is established. Section 19 of the F.C. Act provides for appeals and revisions of Family Court Order, which reads as follows:

"19. Appeal.--(1) Save as provided in Sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties or from an order passed under Chapter IX of the Code

of Criminal Procedure, 1973 (2 of 1974): Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) before the commencement of the Family Courts (Amendment) Act, 1991.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and as to the regularity of such proceeding.

(5) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment, order or decree of a Family Court.

(6) An appeal preferred under Sub-section (1) shall be heard by a Bench consisting of two or more Judges".

Section 20 of the F.C. Act provides for overriding effect of the provisions of F.C. Act notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Section 22 of the Act deals with power of the Central Government to make rules.

11.2 Section 14 of the Divorce Act deals with power of District Court to pronounce decree for dissolving marriage. Section 16 of the Divorce Act provides the decrees for dissolution made by High Court, otherwise than by way of confirmation of decree to be nisi, and it reads as follows:

"Every decree for a dissolution of marriage made by a High Court not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree nisi, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court, by general or special order from time to time, directs".

Section 17 deals with confirmation of decree for dissolution by District Judge. Section 18 provides for petition for decree of nullity and Section 19 lays down the grounds on which a decree of nullity can be made. Section 20 provides for confirmation by High Court of decree of nullity of marriage. Section 55 which provides for enforcement of, and appeal from, orders and decrees, reads as follows:

"All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed from, in the like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from, under the laws, rules and

orders for the time being in force:

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage; nor from the order of the High Court confirming or refusing to confirm such decree:

No appeal as to costs.--Provided also that there shall be no appeal on the subject of costs only".

12. A bare reading of the provisions of the F.C. Act reveals that the whole object of the enactment was to provide for establishment of the Family Courts with a view to promote conciliation and to secure speedy disposal of disputes relating to marriages and family affairs and the matters connected therewith. The Family Courts will function wherever they are established to exercise their jurisdiction. There are several areas for which there is no Family Court at all. The object of F.C. Act was not to make changes in the personal laws of different communities living in India. Till a uniform Civil Code is established as enshrined in Article 44 of Part IV of the Constitution of India people professing different religions living in the country, in regard to marital relationship, have to be governed by the special enactments made applicable to them. Where the Family Courts are not established such matters will be considered by the Courts specified in the respective enactments. Therefore, the special procedure laid down by the Divorce Act for dissolving the Christian marriages is required to be followed mandatorily. There could be no deviation from the same. The jurisdiction of the Family Court for entertaining the petitions for grant of dissolution u/s 14 of the Divorce Act was nothing more or nothing less than the jurisdiction of the District Judge under the Divorce Act. The provisions of Section 7 of the F.C. Act conferring jurisdiction on the Family Courts to pass a decree of divorce u/s 14 of the Divorce Act clearly lays down that the Family Court will act as a District Judge u/s 10 of the Divorce Act and for that purpose Family Court is deemed to be a District Court. Provisions of Section 7(1)(a) and (b) of the F.C. Act read with Sections 10 and 17 of the Divorce Act makes it mandatory that a decree passed by a Family Court u/s 10 of the Divorce Act has necessarily to be confirmed by the High Court u/s 17 of the Divorce Act. The decree of dissolution of marriage passed by the Family Court does not become final until confirmed u/s 17 of the Divorce Act and does not therefore become appealable u/s 19 of the F.C. Act. In other words, the judgment and order passed by the Family Court u/s 10 of the Divorce Act is not a judgment or decree as contemplated u/s 19 of the F.C. Act. It can become a decree as contemplated u/s 19 of the F.C. Act only after the confirmation by the High Court u/s 17 of the Divorce Act, are over.

13. Section 19 of the F.C. Act clearly lays down that no appeal would lie from an interlocutory order passed by the Family Court. An order u/s 14 of the Divorce Act is not a final order and would be in the nature of an interlocutory order or a decree nisi in view of the mandatory provisions of Section 17 of the Divorce Act. While passing a decree, u/s 10 of the Divorce Act, the Family Court is exercising jurisdiction as District Court under the Divorce Act and such a decree nisi

becomes final only after confirmation of the order u/s 17 of the Divorce Act. Hence, no appeal would lie u/s 19 of the F.C. Act from the order passed u/s 14 of the Divorce Act. Order passed by the District Judge being in the nature of a decree nisi and it becomes absolute only on its confirmation by the High Court. No appeal can lie from the order passed by the District Judge as the same is not a final order.

14. Same conclusion can be arrived at by looking at the matter from another angle with reference to the other provisions of the Divorce Act. Appeal is not a matter of right but a creation of statute. Section 55 of the Divorce Act provides for enforcement of, and appeal from, orders and decrees under the Act. Proviso to Section 55 places a very important limitation to the general right of appeal in the case of decrees for dissolution or nullity of marriage made by the District Judge. Such decrees are not subject to appeal. It is not difficult to understand the reason for exception to the general rule. It is because a decree for dissolution or nullity passed by the District Judge, has to be confirmed by the High Court under Sections 17 and 20 respectively before it can become operative and effective. When the matter is examined by three Judges of the High Court for purposes of confirmation a right of appeal to two Judges of the High Court would be a redundant provision. It is only decrees of nullity and dissolution of marriage passed by the District Judges which are not subject to appeal. All other orders and decrees such as judicial separation, restitution of conjugal rights etc., are subjected to appeal. Wherever a decree is required to be confirmed by the High Court a right of appeal is not provided. A right of appeal has been provided wherever a decree passed by the District Court is not required to be confirmed by the High Court. If a right of appeal is not provided under the Divorce Act, in the case of decrees dissolving the marriage or declaring the marriage to be nullity, then a right of appeal is not created under the F.C. Act which is procedural in nature conferring jurisdiction on the specially created Courts to deal with the matrimonial matters. Substantive rights of the parties would be governed by the respective law governing marriage and divorce. The F.C. Act confers jurisdiction on special Courts created under that Act, for expeditious disposal of the matrimonial disputes and the same does not deal with the substantive rights of the parties guaranteed under the special enactments. This view is also strengthened by the provisions of Section 56 of the Divorce Act as well. Section 56 makes the provision for filing of an appeal to the Supreme Court from the final orders of the High Court confirming or otherwise of the decree passed by the District Judge. Reason for this is not far to seek. Appeal has been provided to the Supreme Court because the order of confirmation passed by the High Court has the effect of converting a decree nisi by the High Court into an absolute decree.

15. For the reasons stated above, the appeal against the decree of the District Judge/Family Court under the Divorce Act, dissolving the marriage or declaring the marriage to be a nullity would not be maintainable as it is not a final order. The said order would become operative or effective only if the High Court

confirms the same. The High Court on a reference for confirmation should review the entire evidence and come to its own conclusion whether the facts are sufficient to justify a decree for dissolution of marriage or, or not established by evidence. It is only after confirmation by the High Court the dissolution/order of dissolution of marriage would become effective and operative. Therefore, the appeal filed by the husband u/s 19 of the F.C. Act, against the decree (nisi) dated 4-12-1998 passed by the District Judge is not maintainable in law. We respectfully agree with the reasoning of the latter Full Bench in its order of reference.

16. Under the circumstances, we are of the view that the decree passed by the Family Court under Sections 16 and 19 of the Divorce Act needed confirmation by the High Court. The view expressed by the Division Bench in M.F.A. No. 164 of 1999 that an appeal u/s 19 of the F.C. Act is maintainable against an order u/s 16 of the Divorce Act is not correct. In our humble view the decision of the earlier Full Bench in C.R.C. No. 11 of 1999 relying on the decision of the Division Bench in M.F.A. No. 164 of 1999 also does not lay down the correct proposition of law. As already stated it is necessary that the decree passed by the Family Court u/s 16 of the Divorce Act also requires to be confirmed by the High Court. We accordingly answer the first point in the affirmative and the second question in the negative.

17. But the above was the position before the amendment to the Divorce Act, 1869, by the Divorce (Amendment) Act, 2001 which received the assent of the President of India on September 24, 2001 and which came into force from 3-10-2001. Section 17 of the Divorce Act which deals with confirmation by High Court in regard to decrees granted by District Judge has been completely omitted and in its place new Section 17 has been substituted which reads as under:

"17. Power of High Court to remove certain suits.--During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are/or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit u/s 8, and the Court shall thereupon, if it thinks fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in Section 16 shall apply to every suit so removed; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary, to enable him to make a decree in accordance with the justice of the case".

Consequently, by the amendment the words in Section 14 to the effect "in the manner and subject to all the provisions and limitations in Sections 16 and 17 made and declared" have been omitted. Thus, this requirement of confirmation by the High Court of every decree of dissolution of marriage made by the District Judge has been completely dispensed with in regard to judgments passed by the District Court on or after 3-10-2001. Therefore, in view of the change in law the

above discussion would become purely academic in regard to decrees passed by the District Court/Family Court on or after 3-10-2001. Now, a District Court or Family Court can u/s 14 of the F.C. Act pronounce a decree declaring such marriage to be dissolved and such a decree would be final and executable as it does not require any confirmation by the High Court. After the amendment, against such orders or decrees passed by the Family Court under Sections 14 and 19 of the Divorce Act, an appeal would lie u/s 19 of the F.C. Act to the High Court which should be heard by a Bench of two or more Judges. The net effect of this amendment is that the orders passed by the District Judge/Family Court under Sections 14 and 19 of the Divorce Act are final they are no longer decree nisi which require confirmation by the High Court under the old law.

18. Another significant change brought about by the amendment to the Divorce Act is the provision for dissolution of marriage by mutual consent. For the aforesaid purpose Section 10-A has been inserted which reads as under:

"10-A. Dissolution of marriage by mutual consent.--(1) Subject to the provisions of this Act and the rules made thereunder, a petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Indian Divorce (Amendment) Act, 2001, on the ground that they have been living separately for a period of two years or more, that they have not been able to live together and they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of presentation of the petition referred to in Sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn by both the parties in the meantime, the Court shall, on being satisfied, after hearing the parties and making such inquiry, as it think fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of decree".

19. In view of the Divorce (Amendment) Act, 2001 whereby Section 17 as it stood prior to the amendment requiring confirmation of decree nisi by the High Court has been omitted and new Section 17 has been substituted, the Decree of Divorce passed by the District Judge under the Divorce Act would be final as the same does not require confirmation after the Amendment Act, 2001 which has come into force with effect from 3-10-2001. Therefore, the decree of divorce passed by the Family Court would be appealable u/s 19 of the Family Courts Act as the said provision overrides the provision in any other law. However in areas where Family Court is not established the order of the District Court passing decree for divorce which does not now require confirmation due to deletion of old Section 17 of the Divorce Act would be appealable u/s 55 of the Divorce Act as Section 29 of the Amendment Act, 2001 has omitted first proviso to Section 55. The appeal would therefore lie to High Court u/s 55 of the Divorce Act.

20. Considering the effect of amendment on the pending cases in High Court, it is seen that the General Clauses Act has been enacted to avoid superfluity and repetition of language in various enactments. The effect of repealing a statute or deleting a provision is to obliterate it from the statute book as completely as if it had never been passed. To this Rule, an exception is provided by Section 6 of the General Clauses Act and so in the absence of any provision giving it retrospective operation, the Court cannot give retrospective effect to Divorce (Amendment) Act of 2001. The provisions of Section 6 of the General Clauses Act are applicable to express or implied repeal and also to amendment by substitution in absence of the contrary intention. The provisions of the Divorce (Amendment) Act of 2001 cannot at all be said to be retrospective as the same has come into force on 3-10-2001 in view of Section 2 of the amended Act and, therefore, to the cases pending in High Court, for confirmation, the old law will be applicable.

21. Though the larger Bench is not generally called upon to decide the case on merits, since in the present case regarding merits of the dispute between the parties has also been referred to us, we will consider the same. The parties who are present in the Court and identified by their Counsel submitted that they (petitioner and the respondent) are living separately for more than eight years and in view of the insertion of Section 10-A in the Divorce Act providing for dissolution of marriage by mutual consent they may be granted a decree for dissolution, instead of examining the decree of the Family Court u/s 17. The petitioner has in fact filed an application I.A. No. I on 13-1-2002 for this purpose. Learned Counsel for the parties submit that as these proceedings for confirmation of divorce u/s 17 is a continuation of the original lis, a decree for dissolution of marriage may be granted u/s 10-A of the Divorce Act be passed. A petition for divorce can be converted into one for divorce by mutual consent and subject to satisfaction regarding free consent by parties, the Court can grant decree for dissolution by mutual consent. Though Section 10-A refers to District Court, there is no impediment for the High Court to grant the decree for mutual consent. Having considered what the parties have stated before us and being satisfied of the grounds made in the application u/s 10-A of the Divorce Act and by virtue of the power conferred on this Court u/s 16 of the Divorce Act, we hereby grant a decree nisi for dissolution of marriage with a direction to the registry to place this matter before the concerned Full Bench after six months from today for making the decree nisi absolute as required under law. In view of it, it is unnecessary to examine on merits as to whether the decree for dissolution requires to be confirmed. We answer point (iii) accordingly.

22. In view of the above, we answer the three points arising in this reference as follows:

(1) The first point is answered in the affirmative and the second point is answered in the negative. (Note.--The above is the position in regard to decrees granted before 3-10-2001 when the amendments to Sections 14, 17 and 20 of the Divorce Act, 1869 by the Divorce (Amendment) Act, 2001 came into force.

On and from 3-10-2001, the answers to questions 1 and 2 will be in the negative and affirmative respectively).

(2) The third question is answered as per para 19 above.

23, As a consequence of the request of parties for dissolution u/s 10-A, M.F.A. No. 164 of 1999 filed by the husband does not survive.