

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 04TH DAY OF JUNE 2003

BEFORE :

THE HON'BLE MR JUSTICE S R NAYAK

AND

THE HON'BLE MR JUSTICE K RAMANNA

MISCELLANEOUS FIRST APPEAL NO.4280 OF 2000

BETWEEN:

Dr Naromi Swanalatha,  
W/o Dr Henry Kurpakaran &  
D/o Mr J P Jayakumar,  
Aged about 34 years,  
R/o No 211, 11<sup>th</sup> Main,  
Brindavan Extension,  
Mysore-570 020 Appellant

(By Sri K V Narasimhan for appellant)

AND

Dr Henry Kirupakarana,  
S/o Mr M Sudaram,  
Aged about 37 years,  
R/o No 31, New R P M Street,  
Shankaranpalayam,  
Vellore - 632 001,  
(North Arcot Ambedkar  
District), (Tamil Nadu). Respondent

(By Sri C R Subramanya for respondent)



This Miscellaneous First Appeal is filed under Sec 19(1) of the Family Courts Act againstk the Order dated 26-9-2000 passed in M C No.428/98 on the file of the Family Court Judge, Mysore, holding the preliminary point regarding lack of jurisdiction in favour of the respondent etc.,

This appeal coming on for Hearing this day, S R NAYAK, J delivered the following:-

**JUDGMENT**

By the order under appeal, the learned Judge Family Court, Mysore has returned the petition filed by the appellant herein under secs 22 and 23 of the Indian Divorce Act, 1869 holding that the petition is not maintainable on the ground that the respondent/husband could not be said to have last resided in mysore City The correctness of that finding is called in question in this appeal

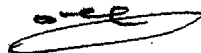
2 The facts are not in dispute. The petitioner and the respondent married on 19<sup>th</sup> September 1991 and after the marriage till 28<sup>th</sup> of March 1997 they stayed together at the place of



the respondent/husband at Vellore According to the petitioner/wife, on 28<sup>th</sup> of March 1997 the respondent/husband took her to Mysore and they stayed together in the petitioner's parents' house for a period of four days and then the husband returned to Vellore On the basis of the fact that the petitioner and the respondent stayed together in the petitioner's parents house for four days after 28<sup>th</sup> of March 1997, on behalf of the wife, it was contended before the Family Court that Mysore should be regarded as the place at which the petitioner/wife and the respondent/husband 'resided together' within the meaning of that phrase for the purpose of determining the jurisdiction of the District Court in terms of the provisions of Section 3(3) of the Act The learned Family Judge placing reliance on the Judgment in CLARANACE -v- RAICHEAL (1963(2) M L J 122) has held that such a casual stay of the husband and the wife together in Mysore for



four days, that too, in the in-laws' house could not be construed as the place at which the couple 'resided together last' and dismissed the petition holding that the Family Court at Mysore has no jurisdiction. There is no need for us to dilate on this aspect further because the learned Family Judge, in great elaboration has referred to the decision of this Court cited above. In addition, admittedly, till 28<sup>th</sup> of March 1997, the couple had stayed at the residence of respondent/husband at Vellore and on 28<sup>th</sup> of March 1997 the couple came to the in-laws' house at Mysore and the respondent/husband stayed only for four days with the wife and then, left for his native place at Vellore. The mere fact that the husband stayed with the petitioner/wife in his in-laws' house in Mysore for four days would not lend any rationality to hold that the husband and wife 'resided together' for the purpose of conferring jurisdiction on the family Court, Mysore within



the meaning of Sec 3(3) of the Act Therefore,  
the holding of the Family Court is well justified  
and is in conformity with the law declared by this  
Court in the case of CLARANCE The appeal is  
devoid of merit and it is accordingly dismissed  
with no order as to costs

Sd/-  
Judge

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Sd/-  
Judge

NT/-