

“negative. The point on which the decision of the Subordinate Judge turned had nothing to do with any question of jurisdiction. There is another reason for declining to interfere in this case, and that it is open to the petitioner to make a fresh application to the Subordinate Judge.

KAMMATHI  
MANGAPPA.

“I must dismiss this petition with costs.”

The petitioner preferred the present appeal under Letters Patent, s. 15.

*Sankara Menon* for appellant.

Respondents were not represented.

JUDGMENT.—The Subordinate Judge declined to entertain the application which he had jurisdiction to entertain by reason of his erroneously supposing that a certificate was necessary before the application could be entertained. The case is within the principle enunciated by the Full Bench in *Manisha Eradi v. Siyali Koya* (1) as warranting the interference of this Court under section 622 of the Code of Civil Procedure. We set aside the order of the learned Judge and also that of the Subordinate Judge and direct the latter to receive the application and deal with it according to law.

Respondents will pay appellant's costs in this Court.

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## APPELLATE CIVIL—FULL BENCH.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, Mr. Justice Muttusami Ayyar, Mr. Justice Parker and Mr. Justice Wilkinson.*

RATHNAMMAL, PETITIONER,

v.

MANIKKAM AND ANOTHER, RESPONDENTS.\*

1891.  
October, 13.  
1892.  
August, 9.

*Divorce Act—Act IV of 1869—Evidence of marriage.*

The bare assertion of a petitioner under Divorce Act, 1869, is not sufficient proof of her marriage to satisfy the requirements of that Act.

CASE referred under the Indian Divorce Act IV of 1869, s. 17, by T. Weir, District Judge of Madura.

RATHNAMMAL  
v.  
MANIKKAM.

The parties were not represented.

This reference having come on for disposal, the Court made the following order :

ORDER.—“There is no legal proof that the marriage was performed according to the rites of the Christian religion. We must send back the case to the District Judge and direct him to take proof of the marriage of the parties if possible. The mere bare assertion of the petitioner that she married the respondent is insufficient. Strict proof of the marriage is required.”

The evidence of the clergyman who solemnized the marriage between the parties was then taken by the District Judge and an extract from the marriage registrar was filed. This evidence having been sent to the High Court; judgment was delivered as follows :

JUDGMENT.—The proof of the marriage has now been given. We confirm the decree for the dissolution of the marriage.

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## APPELLATE CIVIL.

*Before Mr. Justice Muttusami Ayyar and Mr. Justice Handley.*

SANKARAN (PLAINTIFF), APPELLANT,

v.

KRISHNA (DEFENDANT), RESPONDENT.\*

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*Limitation Act—Act XI of 1877, s. 10, sch. II, arts. 120, 144—Suit by a uralan against an agent of a devasom—Repudiation of agency—Civil Procedure Code—Act XIV of 1882, s. 13—Res judicata—Court of competent jurisdiction.*

In 1873 a predecessor of the plaintiff claiming to be the uralan of a devasom brought a suit in a District Munsif's Court against the present defendant, whom he alleged to be an agent of the devasom, and the defendant disputed the uraima right of the plaintiff and denied that he had been appointed agent as alleged. Issues as to both of these matters were decided in favour of the defendant and the suit was dismissed in 1874.

A suit was now brought in 1890 for a declaration of the plaintiff's title as uralan and to recover from the defendant as such agent, property of a value which exceeded the pecuniary limits of the jurisdiction of a District Munsif, the suit being therefore instituted in the Subordinate Judge's Court :

*Held*, that the suit was barred by limitation.