

[IN REVISION.]

1922.

*Present:* De Sampayo and Porter JJ.

SIVACOLUNTHU *v.* RASAMA.

*D. C. Jaffna, 15,469.*

*Action for declaration of nullity of marriage—Wife pregnant at time of marriage.—Fraudulent concealment of fact.*

Where the fact of pregnancy of the wife at the time of her marriage was concealed from the husband, who was thereby induced to marry her,—

*Held,* that he was entitled to a declaration of nullity of marriage.

THE facts appear from the judgment.

*H. J. C. Pereira, K.C. (with him James Joseph), for plaintiff, petitioner.*

July 12, 1922. DE SAMPAYO J.—

The plaintiff was married to the defendant on November 8, 1920. He brought this action for a declaration of nullity of marriage on the ground that at the time of the marriage the defendant was pregnant, and a child was born two days after the marriage, and that the defendant fraudulently concealed the fact of the pregnancy, and the plaintiff was thereby induced to marry the defendant.

The case was not contested, and the District Judge, on the evidence given on behalf of the plaintiff, found in favour of the plaintiff as regards the facts but thought that under the English law the ground of fraudulent concealment was not sufficient reason for annulling the marriage. It is not necessary to ascertain what the English law is on the subject, as it is clear that it is the Roman-Dutch law that is applicable to the case, and under that law the causes present here constitute a sufficient reason for declaring a nullity of marriage.

Acting in revision, we would set aside the judgment by which the District Judge dismissed the plaintiff's action, and order a decree of nullity of marriage to be entered.

PORTER J.—I agree.

*Set aside.*